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The
Emma
Goldman
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Goldman
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A Microfilm Edition

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Government Documents

December 1, 1917 to January 31, 1918

Edited by

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Without the invaluable help, guidance and enthusiasm of Sara Dunlap Jackson, most of the rich government material in our collection would never have been found. Sara Jackson worked closely with the Emma Goldman Papers in the last ten of her forty-four years as government and military documents research archivist of the National Historical Publications and Records Commission. We dedicate the Government Documents series of the Emma Goldman Papers to her, with appreciation and respect.

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- [Report on] I.W.W. Anarchists[– Pacific Coast] Los Angeles, 1918 Jan. 18 / [Agents 101 and 102, Military Intelligence Division, War Department].
- [Memorandum] 1918 Jan. 18, New York [to] W.L. Campbell [Military Intelligence Division, War Department, New York] / J[ohn] H. Brady, Inspector [Military Intelligence Division, War Department].
- [Letter] 1918 Jan. 18, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: Affidavit in Opposition to Motion [to issue mandate] 1918 Jan. 18 / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: Affidavit in Opposition to Motion [to issue mandate] 1918 Jan. 18 / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: Affidavit and Notice of Motion [to extend mandate, 1918 Jan. 18 (cover page)] / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: Affidavit and Notice of Motion [to extend mandate, 1918 Jan. 18 (cover page)] / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: [Notice of motion to extend mandate] 1918 Jan. 18 / Harry Weinberger.

- Goldman [&] Berkman [v.] United States: [Notice of motion to extend mandate] 1918 Jan. 18 / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: [Affidavit in support of motion for rehearing] 1918 Jan. 18 / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: [Affidavit in support of motion for rehearing] 1918 Jan. 18 / Harry Weinberger.
- [Letter] 1918 Jan. 18, New York [to] Harry Weinberger, New York / Joseph F. Heckler.
- [Letter] 1918 Jan. 18, New York [to] Harry Weinberger, New York / Joseph F. Heckler.
- [Letter] 1918 Jan. 18, New York [to Thomas Watt Gregory] Attorney General [Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice.
- [Letter] 1918 Jan. 19, New York [to Thomas Watt Gregory] Attorney General, Department of Justice, Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice.
- [Letter] 1918 Jan. 19, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court.
- Goldman [& Berkman] v. United States: Motion for an Order enlarging time for issuing mandate, 1918 Jan. 21 [cover page] / [James? D.? Maher? Clerk? United States Supreme Court].
- [Memorandum] 1918 Jan. 21, New York [to] R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department], Washington, D.C. / W.L. Campbell, Military Intelligence [Division, War Department].
- [Agent Report In] re: Emma Goldman – Anarchist, Detroit, Mich., 1918 Jan. 21 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].
- [Agent Report In] re: Emma Goldman – Anarchist, Detroit, Mich., 1918 Jan. 21 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].
- [Agent Report In] re: Emma Goldman – Anarchist, Detroit, Mich., 1918 Jan. 21 / F[red] H. Hessler, Agent [Bureau of Investigation, Department of Justice].
- [Report on Guillotine Club – Lilly Winner, New York, 1918 Jan.? 22?] / [John? H.? Brady? Inspector? Military Intelligence Division, War Department].
- [Agent Report] In re: Meeting held under auspices of Northwest Labor School, 2021-23 E. Division St., Chicago, 1918 Jan. 22 / B. N. Grossman, Operative, American Pro[ective] League.
- [Agent Report In] re: Emma Goldman – Anarchist, Detroit, Mich., 1918 Jan. 22 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].
- [Letter] 1918 Jan. 22, Washington [D.C. to] R[alph] H. Van Deman, Chief, Military Intelligence [Division] War Department, Washington, D.C. / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department.
- [Letter] 1918 Jan. 22, Washington [D.C. to] A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice, [Washington, D.C.] / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department.
- The Selective Draft Act Held Valid / Supreme Court of the United States. – p. 1300 ; 28 cm. *In* New York Law Journal. – Vol. 58, no. 93 (Jan. 22, 1918).
- [Letter] 1918 Jan. 22 [Washington, D.C. to] Francis G. Caffey, United States Attorney [Department of Justice], New York / John Lord O'Brian, Special Assistant to [the] Attorney General [Department of Justice].

- [Memorandum] 1918 Jan. 23, New York [to] R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department], Washington, D.C. / Nicholas Biddle, Military Intelligence [Division, War Department].
- [Memorandum] 1918 Jan. 23, San Francisco [to A.P. Niblack] Director [Office of] Naval Intelligence [Navy Department], Washington, D.C. / W[illia]m [C.] Van Antwerp, Officer in Charge [Branch] Naval Intelligence Office, Navy Department.
- [Memorandum] 1918 Jan. 23, San Francisco [to William C. Van Antwerp] Officer in Charge [Branch] Naval Intelligence [Office, Navy Department, San Francisco] / Fred A. Purner, Office of Naval Intelligence [Navy Department].
- [Letter] 1918 Jan. 23 [Washington, D.C. to] D[on] S. Rathbun [Agent in Charge, Bureau of Investigation, Department of Justice], San Francisco / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice].
- [Letter] 1918 Jan. 23 [Washington, D.C. to] H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice], Chicago / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice].
- [Letter] 1918 Jan. 23 [Washington, D.C. to] E.M. Blanford [Agent in Charge? Bureau of Investigation, Department of Justice], Los Angeles / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice].
- [Letter] 1918 Jan. 23 [Washington, D.C. to] William M. Offley [Division Superintendent, Bureau of Investigation, Department of Justice], New York / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice].
- [Letter] 1918 Jan. 23, New York [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Harry Weinberger.
- [Letter] 1918 Jan. 23, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] / Harry Weinberger.
- Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] / Harry Weinberger.
- Asks New Goldman Hearing — 29 cm. *In* [Washington Star (Jan. 24, 1918)] / [author unknown].
- [Agent Report] In re: Mrs. Angella Marietta — Anarchistic Agent of Emma Goldman, San Francisco [19]18 Jan. 24 / F.W. Kelly [Agent, Bureau of Investigation, Department of Justice].
- [Letter] 1918 Jan. 25 [Washington, D.C. to] Richard Crane [Private Secretary to Secretary of State] Department of State, Washington, D.C. / [Charles M. Storey, Department of Justice].
- [Letter] 1918 Jan. 25, Washington, D.C. [to] Harry Weinberger, New York / John W. Davis, Solicitor General, Department of Justice.
- [Letter] 1918 Jan. 25, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court.
- [Agent Report] In re: Lecture under auspices of the Non-Partisan Radical League, Douglas Park Auditorium, Chicago, 1918 Jan. 25 / K.I. Herman, Inspector, American Pro[ective] League.
- [Memorandum] 1918 Jan. 26 [Washington, D.C. to A.? Evans?] Intelligence Officer [Military Intelligence Division] Western Department [War Department, San Francisco?] / R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department].

- [Agent Report] In re: Emma Goldman, Lecture Jan. 11, 1918 [at] Douglas Park Auditorium, Chicago, 1918 Jan. 28 / Klein, Operat[ive] American Pro[ective] League.
- [Letter] 1918 Jan. 28, Washington [D.C. to] All Employees, Bureau of Investigation [Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice.
- [Letter] 1918 Jan. 28, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court.
- Goldman [& Berkman] v. United States: Petition for Rehearing, 1918 Jan. 28 [cover page] / [James? D.? Maher? Clerk? United States Supreme Court].
- Goldman [& Berkman] v. United States: [Petition for Rehearing denied] 1918 Jan. 28 / Edward D. White, Chief Justice, United States Supreme Court.
- Goldman [& Berkman] v. United States: [Order to Issue Mandate] 1918 Jan. 28 / [Edward] White, Chief Justice, United States Supreme Court.
- [Letter] 1918 Jan. 28, Washington, D.C. [to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / John W. Davis, Solicitor General, Department of Justice.
- [Letter] 1918 Jan. 29, Washington, D.C. [to John W. Davis] Solicitor General [Department of Justice], Washington, D.C. / James D. Maher, Clerk, United States Supreme Court.
- Goldman [& Berkman] v. United States: Mandate, 1918 Jan. 29 [cover page] / Edward White, Chief Justice [United States Supreme Court].
- [File Memorandum for John W. Davis, 1918 Jan. 29? Washington, D.C.] / [James? D.? Maher? Clerk? United States Supreme Court].
- [Telegram, 19]18 Jan. 29, Wash[ingto]n, D.C. [to] Harry Weinberger, New York / Ja[me]s D. Maher, Clerk [United States Supreme Court].
- [Telegram] 1918 Jan. 29 [Washington, D.C. to] Harry Weinberger, New York / James D. Maher, Clerk [United States Supreme Court].
- [Letter] 1918 Jan. 29 [New York to John Lord O'Brian, Special Assistant to the Attorney General] Department of Justice, Washington, D.C. / Julius M. Mayer, Judge, United States District Court.
- [Letter] 191[8] Jan. 29, New York [to unknown recipient] / Emma Goldman.
- [Letter] 191[8] Jan. 29, New York [to unknown recipient] / Emma Goldman.
- [Letter] 1918 Jan. 30, Washington, D.C. [to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / John W. Davis, Solicitor General, Department of Justice.
- [Letter] 1918 Jan. 30, Washington, D.C. [to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / John W. Davis, Solicitor General [Department of Justice].
- [Letter] 1918 Jan. 30, Washington, D.C. [to] Francis G. Caffey, United States Attorney [Department of Justice], New York / John W. Davis, Solicitor General [Department of Justice].
- [Telegram] 191[8] Jan. 30, Lynn, Mass. [to Carl Newlander], New York [government transcript] / Cronaca Sovversiva.
- [Telegram, 19]18 Jan. 30, New York [to] Cronaca Sovversiva, Lynn, Mass. / Carl Newlander.
- [Letter] 1918 Jan. 30, New York [to William H. Lamar] Solicitor, Post Office Department, [Washington, D.C.] / T[homas] G. Patten, Postmaster, Post Office [Department].

[Letter] 1918 Jan. 31 [Washington, D.C. to] Richard Crane [Private Secretary to Secretary of State] Department of State, Washington, D.C. / C[harles] M. S[torey, Department of Justice].

Introduction to Reels 57 through 60 (January 1, 1917 to January 31, 1918)

After the United States entered World War I in April 1917, Congress enacted a wide range of legislation restricting the right to criticize the government. The federal enforcement apparatus grew accordingly. The Bureau of Investigation, now the Federal Bureau of Investigation, the intelligence arms of the Army and Navy, and the Post Office censorship offices expanded from small offices to national networks. In addition, the Department of Justice deputized a small army of self-appointed loyalty enforcers called the American Protective League. Goldman's leading role opposing the war and organizing the No Conscription League in the spring of 1917 put her on a collision course with the federal government.

Goldman and the No Conscription League organized a series of mass protest meetings: the first on May 18, the day Congress passed the Draft Act; the second on the eve of Draft Registration Day, June 4, and another on June 14. Unable to tolerate any more dissent, the government on June 15 arrested Goldman and Berkman in the offices of *Mother Earth* and *The Blast* and impounded letters, mailing lists, financial records, and masses of other material.

Charged with conspiracy to violate the Draft Act, Goldman and Berkman conducted their own defense. At the trial, held in the United States District Court for the Southern District of New York from June 27 to July 9, they called many prominent radicals to testify, including John Reed and Lincoln Steffens. They turned the trial into a platform to lecture on anti-militarism and free speech. The jury found them guilty and Judge Julius M. Mayer sentenced them to the maximum penalty of two years in prison and a fine of ten thousand dollars each.

Later wartime prosecutions of dissenters, including those of Eugene Debs, Kate Richards O'Hare, Mollie Steimer, Jacob Abrams, and the entire I.W.W. leadership, were brought under the repressive Espionage Act of June 15, 1917, and the harsh Sedition Act of May 7, 1918, rather than the more lenient Draft Act. The Sedition Act made it a crime to "willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language" about the United States' form of government, Constitution, military forces, or flag. Violators could and often did receive sentences of up to twenty years in prison.

After the trial, the government took Goldman and Berkman directly to prison, where they remained for two weeks. During this time their attorney, Harry Weinberger, filed for an appeal with the Supreme Court. The court agreed to hear the appeal and to let them out on bail pending their final decision. Berkman, who faced an indictment in San Francisco for complicity in the Preparedness Day bombing for which Tom Mooney and Warren Billings had already been convicted, decided not to post bail. He was transferred to the Tombs jail in New York City, where he thought he would be safer from extradition and possible kidnapping.

Weinberger based his appeal on the unconstitutionality of the draft. He argued that the Draft Act violated the Thirteenth Amendment's prohibition against involuntary servitude and the First Amendment's free speech protections. He also contended that the prosecution did not prove any conspiracy. On December 13 and 14, the Supreme Court heard oral arguments in ten cases that raised the question of the constitutionality of the draft. On January 7, in an opinion in six of the combined cases, titled the Selective Draft Law Cases, they declared the Draft Act constitutional. One week later they denied Goldman and Berkman's appeal. Weinberger immediately requested a rehearing, which the court denied on January 28. Goldman and Berkman began serving their prison terms on February 2, 1918.

While Weinberger pursued the Supreme Court appeal, Goldman concentrated on preventing Berkman's extradition to San Francisco and supporting the anti-war effort. The United States Marshal in New York, Thomas McCarthy, prevented Goldman from delivering speeches on several occasions. Weinberger's intensive lobbying forced Attorney General Gregory to direct McCarthy not to interfere with her speeches in advance.

In January, after Governor Whitman of New York had refused to extradite Berkman without more evidence and Weinberger had assured Goldman that she would not have to begin serving her prison term right away, she went on a speaking tour to Detroit and Chicago. She spoke against the war, raised money for her appeal, and lectured on the promise of the Bolshevik Revolution.

The Government Documents for this period fall into roughly three categories: 1. legal documents related to the trial and appeal; 2. surveillance and investigative reports; and 3. postal censorship records.

1. Legal Documents.

The trial records include the grand jury indictment, on June 21, and two transcripts of the trial. The first, an 824 page stenographer's transcript, is a verbatim record of the entire trial except for jury selection and closing arguments. This document, plus the closing arguments of prosecuting attorney Harold Content and Judge Mayer's jury instructions, make up all of Reel 58. In order to avoid splitting this document between two reels, it is filmed out of chronological sequence, between August and September 1917.

The second transcript, 277 pages long, is the printed record of the trial, prepared by Weinberger and Content for the Supreme Court appeal. Unlike the longer transcript, this record includes transcriptions of the exhibits submitted at trial and Weinberger's petition for Supreme Court review. It is dated September 25, 1917, the date it was submitted to the Supreme Court. Of the two documents, the first is more complete, because it includes

passages — usually arguments over the admissibility of evidence — deleted from the printed version. Neither transcript includes the closing arguments of Goldman and Berkman. Their speeches are printed in the pamphlet, “Trial and Speeches of Alexander Berkman and Emma Goldman”, dated July 1917.

The records of the Supreme Court appeal include the July 17 request for an appeal, Weinberger’s brief on November 30, the government’s reply brief which responds to all the draft cases on December 10, Weinberger’s request to file a supplemental brief, and the brief itself, dated January 3, the court’s opinion on January 14, and Weinberger’s motion for a rehearing. Throughout the appeal, Weinberger maintained a correspondence with Supreme Court Clerk James Maher and Solicitor General John Davis.

2. Surveillance Reports.

Goldman and Berkman were two of the first targets of the rapidly-expanding federal surveillance network. Agent reports from the Bureau of Investigation begin in May 1917. They describe the No Conscription League’s mass meetings in May and June, Goldman’s arrest and the raid on her office, the trial, and Goldman’s speeches while she was out on bail. The accounts of her farewell tour to Detroit and Chicago in January are particularly detailed. They include elaborate descriptions of her speeches, audiences, her hosts, travel plans, telephone calls, mail, and efforts to follow her back to New York.

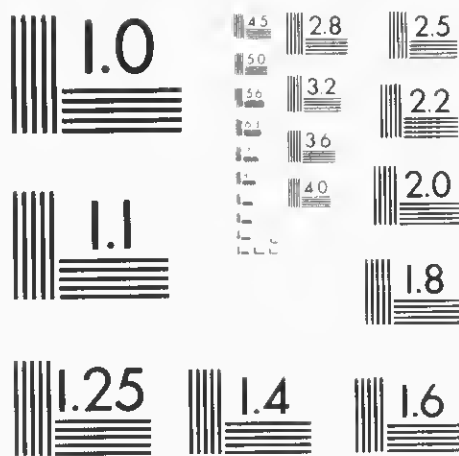
Reports from undercover agents working for Military and Naval Intelligence begin in the fall of 1917. Agent C, a Naval Intelligence contact who had worked undercover with the I.W.W. and anarchists for years, submitted particularly inflammatory accounts of the activities of Goldman, Roger Baldwin, and the I.W.W. This agent authored reports that Goldman was masterminding a plot using “Committees of Five” in various cities to assassinate the President and other public officials simultaneously. This

scheme, named the Guillotine Plot, occupied all investigative branches of the government from the end of November through January 1918.

3. Postal Censorship Records.

The Espionage Act, passed on June 15, 1917, declared nonmailable all written material advocating treason, insurrection, or forcible resistance to the law. Under this law the Post Office held up and ultimately destroyed all copies it could find of *Mother Earth* from May 1917 — one month before the law was enacted — until Goldman stopped publication in August 1917. The Post Office also censored *Mother Earth's* replacement, the *Mother Earth Bulletin*, throughout its publication span from October 1917 to April 1918.

16X



Summary: The Guillotine Club prepares its plan of organization.
Notes: Enclosed with 810402061.

PLAN OF ORGANIZATION

**The Committee
of seven.**

The original Committee of Seven members; four

This Committee of Seven is the all-powerful power in the Society, and its decisions and findings are to be obeyed implicitly.

The National Committee

and will appoint twenty-one
of the men as lieutenants and missionaries to
the other twenty. When this Society grows, the General
Court will appoint as many as they desire to until twenty
are reached, and then the Society will be divided into two
Societies, each with its own officers and members.

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The Emma Goldman Papers

[Summary of Harry Weinberger's Legal Work for Goldman, Berkman, et al., 1917? Dec.? (draft, fragment)] / [Harry Weinberger]. — 5 p. ; 31 x 20 cm.

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Institutional Location: Emma Goldman Archive.

Summary: Weinberger describes the legal work he has done through the end of 1917 for Goldman, Berkman, Reitman, William Bales, Carl Newlander, Morris Becker, and Louis Kramer.

Notes: Pages one and five missing. Incomplete. Handwritten corrections by Weinberger.

1402

The trial was ended at three-thirty, and Mr. Weinberger asked for an adjournment on the grounds that he was physically exhausted. The court brusquely refused the request and insisted on the case being finished that night.

E. G. and A. B. were charged with conspiracy to violate the Draft Act, and the indictment was based on the speeches at Harlem River Casino and the Hunts Point Palace, A. B.'s publication of the "Blast" and E. G.'s publication of "Mother Earth". They were arrested on June 15, 1917. The Harlem River meeting was held on May 8, 1917, before the Draft Act was actually passed. Witnesses for E. G. were Lincoln Steffens, Helen Boardman, M. Eleanor Fitzgerald, Anna Sloan, Minna Lederman, Bolton Hall and Rebecca Shelley. They were arraigned before Commissioner Hitchcock and twenty five thousand dollars (\$25,000.00) bail was fixed for each. Defendants were sent to the Tombs. They were ~~thereafter~~ thereafter indicted and pleaded "not guilty" to the indictment. Trial was set for June 27th. On June 22nd, E. G. was admitted to bail, all cash, \$25,000.00. On June 25th, A. B. was admitted to bail, all cash, \$25,000. No surety company would go bail, and no individual owning real estate would dare go bail, and liberty bonds would not be accepted, as they were not good for liberty. Afterwards, because of that, the law was changed, compelling the acceptance of liberty bonds as bail. On July 9th, defendants were tried before Judge ^{Julius} Mayer. All applications for an adjournment were refused, despite A. B.'s physical condition. Each day at noon, H. W. would go over the evidence and law with the defendants - also each night. On July 9th, defendants were convicted and given two years and \$10,000.00 fine. Motion was made for the return of

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1403

The big U. S. Government after conviction of E. G. and A. B. grabbed \$417.83 of A. B.'s money in the N. Y. Produce Exchange Bank, and E. G.'s \$329.13.

The bank surrendered it to the Government on demand.

E. G. and A. B. sued the bank, claiming the U. S. had to collect money like any other judgment-debtor and recovered a judgment and collected the money in the Municipal Court of the City of New York, and a judge by the name of

Spiegelberg had the guts to decide according to the law, and we received the money back.

X On September 10, 1917, A. B. arrested by Lieut. Barnitz and taken to Police Headquarters.

Arraigned before Magistrate Murphy and held for extradition warrant, 30 days from Sept. 11th. Governor Whitman of New York fixed the hearing for September 25th and adjourned it to October 1st. The Governor ordered a copy of the grand jury proceedings in San Francisco, Calif. to see the basis of the indictment. San Francisco finally abandoned the proceedings rather than give the Government those minutes.

H. W. went to Washington and saw George Creele, head of the Information Bureau, and Tumulty, sec'y. to the President. On November 13th, letter was received by the District Attorney at Albany, N. Y. stating that the San Francisco District Attorney had abandoned the proceedings. On that letter H. W. obtained a habeas corpus from Judge Donnelly of the N. Y. State Supreme Court, and on November 14th, A. B. was released. The argument in the U. S. Supreme Court against the Espionage Law was based on the proposition that the Constitution guarantees against involuntary servitude; that under the common law neither England or the U. S. ever sent troops outside of the country without their consent, and that in

The Emma Goldman Papers

[Summary of Harry Weinberger's Legal Work for Goldman, Berkman, et al., 1917? Dec.? (draft, fragment)] / [Harry Weinberger].— 5 p. ; 31 × 20 cm.

Permission to reproduce or quote in any form must be obtained from the International Institute of Social History.

Institutional Location: Emma Goldman Archive.

Summary: Weinberger describes the legal work he has done through the end of 1917 for Goldman, Berkman, Reitman, William Bales, Carl Newlander, Morris Becker, and Louis Kramer.

Notes: Pages one and five missing. Incomplete. Handwritten corrections by Weinberger.

1404

addition defendants were exercising their right of free speech and free press, and Daniel Webster during the War of 1812 while English troops were in the U. S., made somewhat the same argument. The Draft Act of the Civil War had never been passed upon.

On January 8, 1917, E. G. was tried for violation of Section 1142 of the Penal Code in reference to birth control information, and H. W. defended her and she was acquitted.

Dr. Ben L. Reitman was tried in the Police Court of Rochester, N. Y. before a jury of six, and Judge Gillette, for violation of Sec. 1142 of the Penal Law, in that he distributed contraceptive information. Birth control fight, courtroom packed, etc. etc., public meeting night before, Reitman gave out the information from the platform; newspapers attacked next morning; ^{in examination of the} jury had been asked whether any Jews were on the jury ^{who} ~~and~~ were opposed to birth control ~~and~~ before a son is born to say koddish ^{whether they were proscribed.} The court ruled that was a proper question and then

Catholics were asked as to their prejudices and removed from the jury. The jury acquitted. *E.G. sent*

She adopts me for life as her lawyer

*Just
arrest*

William B. Bales was arrested on June 25, 1917, and held in \$4000 cash bail, and on July 25th complaint was dismissed. X

H. W. handled bail for George Andreytchin for \$10,000 in Liberty Bonds, which upon Andreytchin's escaping to Russia, was forfeited and taken by the Government.

The Emma Goldman Papers

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Notes: Pages one and five missing. Incomplete. Handwritten corrections by Weinberger.

a B 145 local 1405

the Tombs awaiting being sent to Atlanta, refused to register for the new draft that included him. (I presume you have a copy, or there is a copy in the case on appeal, of the pamphlets in that case, including Maurice Becker's cartoon of a man stripped to the waist, facing a cannon, tearing a paper with the word "Conscription" on it, and above the words "Conscientious Objector").

The case was tried for the government by Harold A. Content and Assistant District Attorney. Kramer and Becker were members of the "No Conscription League" ~~started by E. C. and J. B.~~ Both admitted they were anarchists and did not believe in overthrowing the government by force, but were ^{whether by Government or otherwise,} opposed to killing of all kind, and that their consciences were higher than law. X During the trial, Mr. Weinberger called Mr. Content to show that during the trial Mr. Content and detectives had lined men up against a wall at a public meeting, and compelled them to show registration cards, all of which was in violation of the Constitution and compelling men to give testimony against themselves. Judge Mayer refused to allow this testimony to be gone into, which was solely for the purpose of showing that these people who were enforcing the law and stretching testimony, could not be believed because they themselves were violating the Constitution and the law.

Defendants Kramer and Becker admitted they had gone to Madison Square Garden meeting which was an anti-war meeting, to give out pamphlets. This meeting was after the Harlem River Casino meeting where protest was made against passing of the Conscription Act. ~~After~~ the Harlem River Casino meeting, H. W. spoke and Leonard Abbott was chairman. E. G., A. B. and Fraime spoke.

Bales was arrested on the day of

The Emma Goldman Papers

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1406

, charged with failing to register. Held in \$4000.00 bail for the Grand Jury. The government did not know where he was born or where his family lived, and therefore could not prove his age or whether he was within the draft age. They refused to indict and after three months had passed, H. W. insisted that they indict or return his bail and his bail was finally returned. Afterwards he was arrested again with Carl Newlander, and a letter was found in his pocket from a brother in France, which gave his brother's name and company, and they looked up his name and family and found Bales' birth records and indicted him again. To protect his parents who were to be subpoenaed to his trial, he pleaded guilty and H. W. stated that he was an anarchist but was a conscientious objector, though admitting that all conscientious objectors were not anarchists. That an anarchist was one who did not believe in government and therefore did not take part in government or war. Judge *Leanes* Hand agreed that that definition was correct, and held him one day, and his conviction automatically conscripted him into the army and he was sent to Florida to do a clerical job.

Carl Newlander (?) was arrested at the same time as Bales. He pleaded guilty as to not registering, and was sentenced to _____ for _____ months, and afterwards he was deported.

Kramer was given one additional year in Mercer County Jail at Trenton, N. J., for refusing to register, and began his term after he served his two years at Atlanta. During Kramer's trial, he testified: "I would allow them to run me against the wall and shoot me before I would shoot my fellow-men."

The Emma Goldman Papers

[Memorandum in re: Mother Earth Bulletin, 1917? Dec.?]. / Office of the Solicitor,
Post Office Department. — 1 p. ; 29 x 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Someone in the Post Office Solicitor's Office notes that *Mother Earth Bulletin* is bad.

Notes: Upper document only. Response to 810128024

Post Office Department OFFICE OF THE SOLICITOR

*Mother Earth
Bulletin
bad.*

*Justified
Raped in
Cal.*

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

281

ECP-HEJ-114

c

Post Office Department
OFFICE OF THE CHIEF INSPECTOR
Washington

Case No. 61250-E.

September 1, 1917.

Respectfully referred to the

SOLICITOR, POST OFFICE DEPARTMENT.

For consideration with papers referred May 28, 1917.

MOTHER EARTH PUBLISHING ASSOCIATION, NEW YORK, NEW YORK.

Transmitting copies of two communications of the Inspector in Charge, at San Francisco, California, under date of August 22, 1917, relative to attempts of the Mother Earth Publishing Association to secure funds for the maintenance of the publication Mother Earth and for the defense of Emma Goldman and Alexander Berkman in pending criminal court proceedings. Copies of these papers have been referred to the Department of State for its consideration and the original papers have been referred to the Department of Justice. CHIEF INSPECTOR.

572

1-4600

WCH

The Emma Goldman Papers

850712476

[Letter] 1917 Dec. 1, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 15 x 22 cm.
Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.
Summary: The Supreme Court clerk acknowledges receipt of Weinberger's brief in Goldman's appeal.
Notes: Reply to 810206017.

OFFICE OF THE CLERK,
SUPREME COURT OF THE UNITED STATES,
WASHINGTON, D.C.

December 1, 1917.

Harry Weinberger, Esq.,
New York City.

Dear Sir:-

Your letter of the 28th ultimo, enclosing thirty copies of brief and proof of service of same in the case of Berkman & Goldman v. The United States, No. 702, October Term, 1917, duly received, and the briefs filed. The service is satisfactory.

TFD.

Yours truly,
JAMES D. MAHER, Clerk.
By  Ass't.

The Emma Goldman Papers

[Report on] I.W.W. Anarchists [- Pacific Coast] Los Angeles [19]17 Dec: [2?] /
[Agents 101 and 102, Military Intelligence Division, War Department].-
1 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agents 101 and 102 report on radical activities in Los Angeles. They note that the local anarchists are expecting Goldman on a very important secret mission soon.

Notes: Dark copy. For related documents, see 810402011 through 810402015, 850205098, and 850205099.

(Copy)

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION

Los Angeles - 12-1-17.

DEC 10 110-267 1917
73

Subject I. W. W. Anarchists.

WAR DEPARTMENT

1. We attended a meeting of what is called the Rationalist Society, on Sunday night, Dec. 2nd, at Burbank Hall on Main Street, and at this meeting met the president of the Society, Charles Sprading, who has been mentioned in a former report, also his wife, Adah Sprading, and several other of the members. All these people are sympathizers with, and associates of, the Radicals and I.W.W.'s. Charles Sprading is looked upon by the Radicals as one of their most ardent members. He is a writer and lecturer, and the author of several books. He is openly advocating opposition to the war in every way that can be made effective. He has a following among the more intellectual class of these people - those who plan the work for others - and the Radicals predict he will be the first one arrested when the Government decides to take such a step. We believe him to be a dangerous man because of his superior mentality, but doubt if sufficient evidence could be obtained to convict him on any charge. He speaks before the Society every meeting, but has the genius to frame his remarks in such a way that they could be construed to mean the opposite of his intent. In fact, a literal interpretation of his language might be used as an evidence of loyalty to the Government, but his audience, understanding his attitude, understand what is meant. A stenographic report of his speeches at these Sunday night meetings might constitute sufficient grounds upon which to arrest and hold him, but I doubt if he could be convicted. We went to this meeting with Mr. and Mrs. Perry McCullough, who claim that the law partner of Mr. Shapiro, who has been representing the I.W.W. prisoners here, has mysteriously disappeared. In fact, the newspapers mentioned it a few days ago. This man's name is Moore, and the Radicals claim that his disappearance is the result of Government activity against the I.W.W. and that the authorities are using every means in their power to deprive the Radicals of any proper representation in the courts.

2. We also learned that an organization known as the Hilltop Club, the members of which are Radicals of every type, now has its headquarters in East Los Angeles, but we did not learn the address. Walter Smith, Lincoln office address 206 Home Savings Bank Bldg., who represented Harry Singh, the Hindu suspect, is a member of this club. Its membership seems to comprise people from many walks of life, and the club is reported to have recently entertained members of negro societies, supposedly for the purpose of organizing their activities in the predicted revolution, which Smith is planning to bring about as soon as possible.

3. The Radicals are very enthusiastic over a recent newspaper report of Emma Goldman, which reads as follows: "3500 men and women heard Emma Goldman at Union Square, New York, Nov. 16th, when she made her first public appearance since her arrest for obstructing conscription, lecturing on the Russian Revolution. She declared that a similar convulsion would sweep over the U.S. They claim this is evidence that the Government is afraid of Emma Goldman and her following, and do not dare deport her at this time. They are still expecting her to come West on a very important secret mission, as soon as her affairs in New York will permit, and possibly soon after December 10th. They seem to be waiting now in suspense until they can confer with her personally, to see what the big plans are."

BEST COPY AVAILABLE

The Emma Goldman Papers

[List of People to Receive Goldman & Berkman Legal Brief] 1917 Dec. 4 / [Harry Weinberger]. — 4 p. ; 36 x 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger lists the people to whom he wants to send his Supreme Court brief in Goldman and Berkman's appeal.

Notes: For Weinberger's brief, see 871211000.

Bag. Brief

12/4/17

✓ D. Steinhaus	Leonard Abbott
✓ Roger Baldwin (17)	Alex Harvey
✓ Col. Talianero	X Edit Current Opinion
✓ H.A. Content	Gilbert E. Roe
✓ C.E. S. Wood	X Edit Literary Digest
✓ Frank Harris	ⓧ The Dial, Boston
✓ John M. Holland	ⓧ Wm Hunt, The Palladium
✓ O. G. Villard	X Edit The Atlantic Monthly
✓ Bert Hubbard	X Edit Forwards
✓ Felix Shay	X " The Day
✓ Wm M. Reedy	X " Warheit
✓ Max Eastman	X " Daily News
✓ Newton D. Baker	X " Novi Mir
✓ Geo Creel	X " German Herald
✓ Jacob Schecter	X " Staats Zeitung
✓ Geo Lortsch	X " Volkszeitung
✓ Frank Moss	ⓧ " Springfield Republican
H.H. Klein	ⓧ " Kansas City Star
Harry F. O'Neil	ⓧ " Washington Times
Robert C. Mayer	4
Amos Pinchot	ⓧ Editor The Public
Dr Michael A. Cohn	ⓧ Editor Lafayette Weekly
B. W. Huelsh	ⓧ " Bryan's Commoner
✓ Judge Parker	ⓧ " The New Republic
Mrs Mary Fels	
Maxwell M. Mutt	
Edwin V. Mack	

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W. S. Weinberger (2)	Robert Minor,
Morris B. Joachim	Ricardus Berger
Judge Sealring	J. W. Davis
Julius G. Cohen	M. C. Davies
Arthur I. G.	Wm Newsome
Prof. J. A. Howard	Daniel O'Connell
Rebecca Shelly	Mr. Vineck
Paula Jakobson	Mr. Lusk
Latinor Katarin (C & B)	Mr. A. S. Walling
W. A. Voothees	Mr. F. B. House
Horace Brantley	Miss Rievers
S. I. Losh.	Mr. Garrison
J. W. Osborne.	Prof. Harry Wolf Bikel.
H. A. Content (2)	Benj Schwartz
Josephine Nixon	Morris Kinschtein
John Mooney	D. H. Robinson
Wm. M. Nelson.	A. B. Leach
S. Apfel	Henry Ford
B. Hartstein	Lillian D. Wald
S. Neufeld	Rose P. Stokes
Bolton Hall	Prof. E. W. Kershway
Robert Hewi	Upton Sinclair
George Bellows	Geo. F. Peabody
Randolph Bourne	W. A. Shippe
Prof. John Dewey	W. Allen Lee
Mr. B. C. Parsons	Luke North
Prof. Scott Manning	Chas. F. Lippincott
Rev. John Haynes Holmes	Mr. Charles
Fred. C. House	Alfred B. Mason
J. P. Warhase.	James R. Browne
	Mr. Wilson

The Emma Goldman Papers

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Notes: For Weinberger's brief, see 871211000.

- ✓ Judge Morris Koenig
 - ✓ " Wm. Blair
 - ✓ Dr. Resnick
 - ✓ Dr. Max Stumsky
 - ✓ Martha Gruening
 - ✓ Joseph H. Rumm
 - ✓ Harry Cooper
 - ✓ Arthur L. Rosenberg (2)
 - ✓ Mrs C. Rittenberg
 - ✓ Albert J. Rittenberg
 - ✓ Wm E. Hosche
 - ✓ Frederick L. Barnaby
 - ✓ Edward Cooney
 - ✓ Nicholas Ames
 - ✓ Peter W. Hesterman
 - ✓ Bourke Cochran (Case & Brief)
 - ✓ John Quinn
 - ✓ Anna Sloan (Case & Brief)
 - ✓ Mrs. S. Clerk
 - ✓ Com. Eichrist
 - ✓ Samuel Hoffman
 - ✓ Richard Bruno
 - ✓ Benjamin Marsh
 - ✓ Samuel W. Simpson
 - ✓ A. N. Pearlman
 - ✓ Kate Schecter
 - ✓ Abraham Lefkowitz
 - ✓ Joseph A. Caspary
 - ✓ Elvindo Bruno
 - ✓ Pauline Turkel
 - ✓ Francis J. Heney
 - ✓ Dr. Wm. J. Robinson
 - ✓ James Bagley
 - ✓ Anna Hoyer
 - ✓ Dr. H. R. Linnelle
 - ✓ Daniel J. Kiefer
 - ✓ Scott Weaving
 - ✓ Dr. H. W. L. Dana
 - ✓ Dr. Rattel
 - ✓ Prof. Mussey
 - ✓ Prof. Beard
 - ✓ J. Maurice Womack
 - ✓ Champ Clark
- Butler St, East Elmhurst
L. I.
26. 30th St
- 976 Simpson St

The Emma Goldman Papers

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Notes: For Weinberger's brief, see 871211000.

Prince Hopkins	X Editor Globe ✓
Yale Club	X " Journal ✓
Jacob Margolis ?	X " American ✓
Pittsburg ?	X " Post Times
Harry Kelly	X " Tribune
S. Jay Kaufman	X " Herald
1/4 Globe	X " World Worker
Arthur Brisbane	X Telegraph
2/4. Encl.	X " Bldg Eagle
Wm Randolph Hearst	X " " Standard
Clarence Darrow	X " " Union
Max Pine	X " " Citizen
Hon. D. Shiffruff	X " " June
L. Langer	(X) " Call Evening ✓
Alec Cohen	(Y) " Evening Mail ✓
M. Finestone	(Y) " San Francisco
James Holbeck	(Y) " Bulletin ✓
Stella Ballantine	(Y) " Philadelphia Ledger
Helena Hochster	(Y) ^{Editor S. Janofsky} Free Arbeiter Stimme ✓
Jessie Ashley	X Class Struggle
E. Stuyvesant	n. Y. City ✓
Dr. A. L. Goldwater	(Y) Boston Transcript
"	(Y) " Journal ✓
Dr. F. A. Blossom	(Y) Christian Science Monitor
Munna Lowensohn	art Young
Ellen Lowensohn	Daniel Kiefer
Dr. S. Ginsburg	John Harmon
A. Margulis	Lincoln Steffens
Johnson	Diana Belais
Berenger	S. L. Koenig
	Editor The Worker
	Edwin Mahkhan
	Hon. Gustaf Hartman
	Judge A. F. Levy
	Judge Smith
	Judge Spiegelberg

The Emma Goldman Papers

850205022

[Agent Report] In re: Emma Goldman—Berkman et al. (Bernard Ackerman), New York, 1917 Dec. 4 / Amer[ican] Protective League.— 1 p.; 33 x 22 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 165.
Summary: American Protective League operative Baumgarten describes his efforts to force Bernard Ackerman to register for the draft.

REPORT FORM NO. 1

70555

DEC 11 1917

REPORT MADE BY: Amer. Protective League New York City	PLACE WHERE MADE: New York City	DATE WHEN MADE: Dec. 4, 1917.	PERIOD FOR WHICH MADE: Oct. 2, 1917.
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: IN RE: EMMA GOLDMAN - BERKMAN ET AL (BERNARD ACKERMAN)			
			EHR:EMP
STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.: <p style="text-align: center;"><u>"ACKERMAN, BERNARD"</u></p> <p style="text-align: right;"><i>RHS</i></p> <p>Information by: Paul Baumgarten, A. I. L.</p> <p>"Bernard Ackerman, married, 436 E. 86th St., said he had registered, made bluff of getting his card, which he could not produce. Suggested I go to local exemption board to prove his statement. At such board they had no record of his registration or exemption. Said he applied for exemption, but his name was not on books. Sent letter (registered) to him on October 4th and have postmaster's receipt. He was requested to report on the 5th. If he has not reported, will you please give instructions.</p>			
COPY OF THIS REPORT FURNISHED TO: Roger B. Wood.			• T-677

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The Emma Goldman Papers

[Telegram] 1917 Dec. 4 [New York to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 15 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger asks Davis for advance copies of his brief in Goldman's appeal.

Notes: Broken type; barely legible. For reply, see 850712208.

CLASS OF SERVICE DESIRED	
Fast Day Message	<input type="checkbox"/>
Day Letter	<input type="checkbox"/>
Night Message	<input type="checkbox"/>
Night Letter	<input type="checkbox"/>

Patrons should mark an X opposite the class of service desired; OTHERWISE THE TELEGRAM WILL BE TRANSMITTED AS A FAST DAY MESSAGE.

WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT.

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

Form 1213

Receiver's No.
Check
Time Filed

Send the following telegram, subject to the terms on back hereof, which are hereby agreed to

December 4th,

1917

To Hon. John W. Davis,

Street and No. Solicitor General,

Place Department of Justice, Washington, D.C.

your

Kindly send me to-day advance copy/Goldman-Berman brief.

HARRY WEINBERGER

SENDER'S ADDRESS
FOR ANSWER

SENDER'S TELE-
PHONE NUMBER

BEST COPY AVAILABLE

The Emma Goldman Papers

850712208

[Letter] 1917 Dec. 4, Washington, D.C. [to] Harry Weinberger, New York / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 29 × 22 cm.
Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.
Summary: Davis sends Weinberger proofs of his brief in Goldman's appeal.
Notes: Reply to 850712207.



Office of the Solicitor General, SG-WJH-LJB
Washington, D.C.

Dec. 4, 1917.

186233-

Harry Weinberger, Esq.,

261 Broadway,

New York, N. Y.

My dear Sir:

I send you herewith galley-proof of brief for the United States in the Selective Draft Act cases. You understand, of course, the proof is subject to change.

Respectfully,

Enc. 94192-

John W. Davis
Solicitor General.

The Emma Goldman Papers

810128024

[Letter] 1917 Dec. 5, New York [to William H. Lamar] Solicitor, Post Office Department, [Washington, D.C.] / T[homas] G. Patten, Postmaster [Post Office Department]. — 1 p. ; 32 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Patten asks for instructions regarding the mailability of several of Goldman's pamphlets, books, and the *Mother Earth Bulletin*.

Notes: Reply to 810128151. For response, see 810128023. For follow-up, see 810128001.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

OFFICE OF THE POSTMASTER

United States Post Office
NEW YORK, N. Y.

Encs.

December 5, 1917

Solicitor,

Post Office Department.

Your letter of the 26th ultimo advising that the pamphlet containing an account of the Trial and Speeches of Alexander Berkman and Emma Goldman in the United States District Court, in the City of New York, July 1917, which is also entitled "Anarchism on Trial" is unmailable, has been received. The total number of copies of this pamphlet on hand is 180 and these will be held for further instructions.

In addition to the copies of the pamphlet referred to one of the packages contains copies of "Mother Earth Bulletin" (Vol. 1 No. 1), October 1917, and another contains also a copy of "Prison Memoirs" by Alexander Berkman, "Anarchism and Other Essays" by Emma Goldman, and six copies of a pamphlet entitled "Justice Raped in California."

I am enclosing two copies of "Mother Earth Bulletin" October 1917 (Vol. 1 No. 1), and two copies of "Justice Raped in California."

H-h

T. G. PATTEN
Postmaster

Asst. P. M.

The Emma Goldman Papers

[Memorandum] 1917 Dec. 5 [New York to Edward McCauley, Jr., Office of Naval Intelligence, Navy Department, Washington, D.C.] / [Spencer Eddy, Officer in Charge, Branch Naval Intelligence Office, Navy Department].— 2 p. ; 27 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: The officer-in-charge of naval intelligence in New York describes the actions he has taken regarding I.W.W. activities there. He notes that the New York police cannot arrest Tepetz without a definite charge against him.

Notes: Dark copy. Reply to 870810019. For reports mentioned, see 870810020 and 870810022.

310

I 946
X 3

ADI:ELA

December 5, 1917.

One TEPETZ.

Reference: Orders No. 20957-262 (FCT) of November 28, 1917.

In regard to the above subject, concerning whom you sent me a report from San Francisco, I have to report that I have taken advice in New York and am told that the police are powerless to arrest the individual Tepetz unless there is some definite charge against him. They suggest your taking the matter up with Tampico so as to arrange for a requisition.

In regard to the seventh paragraph of the report advising that :

"About six weeks ago 30 English Rebels, under the leadership of Jimmy Fox secured jobs on English boats just to carry I.W.W. literature into England and France."

this man is undoubtedly the same as we have had reported to us from a source of unknown reliability to the effect that:

"when the S.S. 'OLEUM' sailed from here some 6 or 7 weeks ago for England her whole crew consisted of I.W.W. men under the leadership of a Jew who sometimes uses the name of JIMMIE SCOTT.

Also that this vessel will, on her return trip to England, ship another crew of I.W.W.

BEST COPY AVAILABLE

The Emma Goldman Papers

[Memorandum] 1917 Dec. 5 [New York to Edward McCauley, Jr., Office of Naval Intelligence, Navy Department, Washington, D.C.] / [Spencer Eddy, Officer in Charge, Branch Naval Intelligence Office, Navy Department]. — 2 p. ; 27 x 21 cm.

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Notes: Dark copy. Reply to 870810019. For reports mentioned, see 870810020 and 870810022.

-2-

310

1946

CONFIDENTIAL.

ADI:ELA

Dec. 5, 1917.

men -- the idea apparently being that some of these men should after arriving in England get away and endeavor to cause trouble. Also that the crew, while they are in port, should try to cause labor unrest."

In connection with the ninth paragraph, Tara Yoshikara, Japanese anarchist, will you advise me if you wish me to take up the investigation of this man through Mr. Pruet, if he is still at the Hotel Imperial, New York.

In regard to the tenth paragraph, first on page 2, giving a list of cafes where German spies lure soldiers, I have given this list to Major Biddle of the Military Intelligence Service.

In the same paragraph, the information that men in army and navy uniforms were seen at Emma Goldman's meeting at Hunt's Point Palace, has been transmitted to the Aid for Information, Third Naval District.

Lieut.-Commander U.S.N.R.F.

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The Emma Goldman Papers

[Memorandum] 1917 Dec. 5, New York [to Edward McCauley, Jr., Office of Naval Intelligence, Navy Department, Washington, D.C. (fragment)] / Spencer Eddy [Officer in Charge, Branch Naval Intelligence Office, Navy Department]. — 1 p. ; 26 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: The officer-in-charge of naval intelligence reports that he told the naval Aid for Information that men in uniform attended Goldman's meeting at Hunt's Point Palace.

Notes: Reply to 800519029. Page two of 870810021.

OFFICE OF NAVAL INTELLIGENCE

BRANCH OFFICE
15 WALL STREET
NEW YORK

ADI:ELA

Dec. 5, 1917.

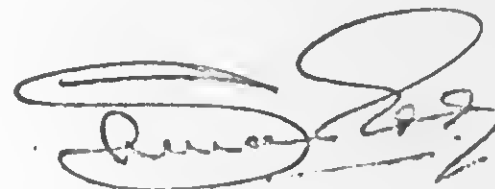
CONFIDENTIAL.

men -- the idea apparently being that some of these men should after arriving in England get away and endeavor to cause trouble. Also that the crew, while they are in port, should try to cause labor unrest."

In connection with the ninth paragraph, Tara Yoshikura, Japanese anarchist, will you advise me if you wish me to take up the investigation of this man through Mr. Pruett, if he is still at the Hotel Imperial, New York.

In regard to the tenth paragraph, first on page 2, giving a list of cafes where German spies lure soldiers, I have given this list to Major Biddle of the Military Intelligence Service.

In the same paragraph, the information that men in army and navy uniforms were seen at Emma Goldman's meeting at Hunt's Point Palace, has been transmitted to the Aid for Information, Third Naval District.



Lieut.-Commander U.S.N.R.F.

The Emma Goldman Papers

Confidential Files [1917 Dec. 6 to 1918 March 6 (cover page)] / Office of Naval Intelligence, Navy Department. — 1 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Notes: For enclosures, see 800519009 and 800519011 through 800519015.

NAVY DEPARTMENT
OFFICE OF NAVAL INTELLIGENCE
WASHINGTON

CONFIDENTIAL FILES

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The Emma Goldman Papers

800519009

[Memorandum] 1917 Dec. 6, San Francisco [to A.P. Niblack] Director [Office of] Naval Intelligence [Navy Department, Washington, D.C.] / W[illia]m C. Van Antwerp, Officer in Charge, Branch Naval Intelligence Office [Navy Department]. - 2 p.; 26 x 22 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 38.
Summary: Van Antwerp reports that Edward Morgan, Goldman's San Francisco agent and propagandist for the Mooney case, holds credentials issued by Mr. Tumulty, President Wilson's private secretary.
Notes: For transcript, see 850205029.

BRANCH OFFICE
BALBOA BUILDING
SAN FRANCISCO, CAL.

DEC 11
RECEIVED

CONFIDENTIAL

VA/FAK

December 6, 1917.

From: Officer-in-Charge, Branch Naval Intelligence Office, San Francisco

To: Director of Naval Intelligence

SUBJECT: CREDENTIALS ALLEGED TO HAVE BEEN SIGNED BY MR. TUMULTY.

1. Yesterday Edward Morgan appeared at I.W.W. headquarters here. He had been in New York doing propaganda work on behalf of Mooney, the convicted bomb thrower of this City. As soon as he came in Miss Pollock of the Local I.W.W., gave him \$25.00 and told him to go to Fresno at once and get Chester Rowell, the editor of the Fresno Republican, to use his editorial influence on behalf of the indicted Fresno bomb throwers who are soon to be put on trial. Miss Pollock advised Morgan to show Editor Rowell the credentials signed by Mr. Tumulty, President Wilson's private secretary. Morgan agreed to do this and stated that he also carried a letter from a member of the staff of Secretary of War Baker.

2. We have a long record of pernicious activities of this man Morgan. These records show that on June 11, 1917, he was in this City with credentials soliciting funds for the Mooney defense; that he was in New York early in November of this year reporting daily to Emma Goldman; that on November 9th, 1917, Emma Goldman received telegraphic instructions from Ed Nolan, an I.W.W. leader of this City reading, "Send Morgan home at once;" that he has now returned to San Francisco in response to this telegram; that on November 14th, 1917, Emma Goldman told Alexander Berkman on his release from jail that Edward Morgan would return to 'Frisco on November 19th, and that he, Morgan, was especially delegated to get in touch with United States Army recruits in California and to act as Emma Goldman's agent there.

3. I will make every effort here to ascertain just what credentials Morgan holds signed by Tumulty and others. Meantime it may be of interest that on November 9th, in a conversation with our confidential

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The Emma Goldman Papers

[Memorandum] 1917 Dec. 6, San Francisco [to A.P. Niblack] Director [Office of] Naval Intelligence [Navy Department, Washington, D.C.] / W[illia]m C. Van Antwerp, Officer in Charge, Branch Naval Intelligence Office [Navy Department]. - 2 p.; 26 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: Van Antwerp reports that Edward Morgan, Goldman's San Francisco agent and propagandist for the Mooney case, holds credentials issued by Mr. Tumulty, President Wilson's private secretary.

Notes: For transcript, see 850205029.

CREDENTIALS ALLEGED TO HAVE BEEN

agent "C" in New York, Emma Goldman stated that it was Secretary Tumulty's influence with President Wilson that induced the President to ask Governor Whitman of New York to postpone the extradition of Berkman.

W.C. Van Antwerp

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The Emma Goldman Papers

850205029

[Report on Edward Morgan, San Francisco, 1917 Dec.? 6?] / [William C. Van Antwerp, Officer in Charge, Branch Naval Intelligence Office, Navy Department]. — 1 p.; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: The San Francisco Office of Naval Intelligence reports that Edward Morgan, Goldman's San Francisco agent and propagandist for the Mooney case, holds credentials issued by Mr. Tumulty, President Wilson's private secretary.

Notes: Dark copy. Enclosed with 850205026. For original report, see 800519009.

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OFFICE CHIEF OF STAFF GUN
WAR COLLEGE DIVISION

JAN 8 1917
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CREDENTIALS ALLEGED TO HAVE BEEN SIGNED BY MR. TUMULTY. WAR DEPARTMENT

Yesterday Edward Morgan appeared at I.W.W. Headquarters here (San Francisco.) He had been in New York doing propaganda work on behalf of Mooney, the convicted bomb thrower of this City. As soon as he came in Miss Pollock of the Local I.W.W., gave him \$25.00 and told him to go to Fresno at once and get Chester Rowell, the editor of the Fresno Republican, to use his editorial influence on behalf of the indicted Fresno bomb throwers who are soon to be put on trial. Miss Pollock advised Morgan to show Editor Rowell the credentials signed by Mr. Tumulty, President Wilson's private secretary. Morgan agreed to do this and stated that he also carried a letter from a member of the staff of Secretary of War Baker.

We have a long record of pernicious activities of this man Morgan. These records show that on June 11, 1917, he was in this city with credentials soliciting funds for the Mooney defense; that he was in New York early in November of this year reporting daily to Emma Goldman; that on November 9th, 1917, Emma Goldman received telegraphic instructions from Ed Nolan, an I.W.W. leader of this City reading, "Send Morgan home at once;" that he has now returned to San Francisco in response to this telegram; that on November 14th, 1917, Emma Goldman told Alexander Berkman on his release from jail that Edward Morgan would return to 'Frisco on November 18th, and that he, Morgan, was especially delegated to get in touch with United States Army recruits in California and to act as Emma Goldman's agent there.

I will make every effort here to ascertain just what credentials Morgan holds signed by Tumulty and others. Meantime it may be of interest that on November 9th, in a conversation with our confidential agent "C" in New York, Emma Goldman stated that it was Secretary Tumulty's influence with President Wilson that induced the President to ask Governor Whitman of New York to postpone the extradition of Berkman.

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The Emma Goldman Papers

[Letter] 1917 Dec. 6, Chicago [to] Carl Reichmann, Intelligence Officer [Military Intelligence Division, War Department], Chicago / H.F. Schuettler, General Superintendent, Chicago Police Department. — 11 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Schuettler explains his participation in a scheme to get Reilman to disclose the whereabouts of Jean Crome, a suspected poisoner.



CITY OF CHICAGO
OFFICE OF THE
GENERAL SUPERINTENDENT OF POLICE



H. F. SCHUETTLER
GENERAL SUPERINTENDENT
Encl 1

DEC 11 1917
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39
WAR DEPARTMENT

December 6, 1917.

Carl Reichmann,
Colonel Infantry,
Department Intelligence Office, U.S.A.
Chicago, Illinois.

Dear Sir:-

As per your request, I herewith submit to you the following report concerning the sending of a telegram to Lieutenant Colonel R.H. Van Deman, Chief of the Military Intelligence Section, War College, with reference to Jean Crones, and the details of a trip which I took in this matter to New York City, at which place I met Captain W.K. Evans of your command at his request:

Some time in August I received a telephone message from Captain W.K. Evans, asking me if I had any pictures of Jean Crones. I informed him I had some which were supposed to be very good. He asked me if I would let him have them. I told him I would be pleased to do so. He sent Detective Sergeant Harry Burns of this department, who was detailed with him at that time, to my office and I gave him the pictures. A short time after that Captain Evans called me up by telephone and conversed with me about as follows: I have some inside dope and I think I will get that fellow for you, Schuettler." I told him I wished he could as he was a man who tried to poison some of our best citizens, and that it would be a great credit to him (Captain Evans) if he could apprehend him. A considerable time after that Captain Evans called on me one afternoon and stated to me that he had some inside information to the effect that if one Ben Reitman was properly approached he could tell where Crones might be found. I told him I did not think he could unless he (Captain Evans) knew more about it than I did, and I told him I had information of Reitman going to the Chicago Tribune and trying to sell a "scoop" to them by allowing them to interview Crones, but he wanted \$500.00 for that privilege. I received this information from Mr. Howey when he was City Editor of the Chicago Tribune at least ten months or more prior to my conversation with Captain Evans, and I told Captain Evans that I knew of this matter. He then said, "They tell me in New York you can probably get him to confess." He then asked me how much reward there was for his arrest, and I informed him as far as my knowledge was concerned in regard to this reward

The Emma Goldman Papers

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Col. Carl Reichmann

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it was \$1,000.00, offered by the University Club. He then said, "Clabaugh states he will give \$5,000.00 for his apprehension." I said that I didn't know; all that I know is that officially the Club agrees to pay \$1,000.00. He then said, "Damn it; that is strange. Clabaugh says he will deliver \$5,000.00." I answered, "He may know something I don't. I can only promise you \$1,000." I told him that probably Reitman had been fooling the Tribune, and that he probably made the statement in return for some friendly act which the Tribune had performed for him, as I understood it. I didn't want to say that he was lying, but at any rate I was informed that the Tribune proposition never materialized.

Saturday morning, September 29, 1917, Captain Evans called me on the telephone and asked me if I had time to see him in regard to the Crones' matter. I told him I had. He then came to my office, and, in my best judgment, arrived somewhere in the neighborhood of 11:00 o'clock. He again informed me that he had some inside information that if Reitman was properly approached and some consideration offered him he would confess and tell us where Jean Crones could be found, and he thought that both of us ought to go to New York. I told him I did not see any reason for going to New York; that I knew that Reitman was to receive a sentence on some birth control proposition in Cleveland the following Tuesday, and that if he was not incarcerated at that time he would come to Chicago, and that I would rather talk to him, as I expressed it, "on my own dung hill;" that I knew Reitman was getting tired of the anarchistic propaganda and that he was going to marry some girl here and had a flat rented some place in Lake View on the north side of this city, and I thought it advisable, as these events were going to occur in the near future, to wait until the occurrence of the same. Captain Evans seemed very desirous of going to New York, and he thought it would be too bad if he missed the opportunity, and he stated he also thought that Reitman was in a condition where he might talk at that time. I said to him, "If you have inside information, I have not; but, of course, we ought to do our best to get the information. However, I cannot go to New York at the present time and there has been so much said about this that I have a great deal of doubt whether or not Reitman knows at all where Crones is, and I cannot leave my work here and go to New York." He then explained to me he could not make the trip unless he received permission from Col. Van Deman, and that it would be necessary for me to telegraph Van Deman in order that he (Captain Evans) might receive this permission. I objected to his desire to use my name in this way, but he explained that under no

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Col. Carl Reichman

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other conditions could he go, and I finally acquiesced in his request to allow my name to be attached to a telegram asking this permission, believing that if I did not, and if it was true that Crones might be apprehended through Reitman, I would morally be guilty of neglect of duty. He then said he would write the telegram and he compiled a telegram in long hand to Col. Van Deman in which he advised the Colonel not to inform Mr. Bielaski, of the Department of Justice of the telegram or the information contained therein. I objected very strenuously to this, and he endeavored to explain that Col. Van Deman and Mr. Bielaski were located close to one another and visited very frequently, and that in all probability Col. Van Deman would show the telegram to Mr. Bielaski, and then the Department of Justice might interfere in the case. I told him then that Mr. Clabaugh knew all about this matter and had known it for several months, and that there were other people who knew about it, and that I did not believe it was at all proper for him to say anything about Mr. Bielaski in the telegram, and I did not want it inserted, that I did not believe in doing work that way. I further told him that that telegram read as if I was sending it, and that I did not want to be placed in the position of sending a telegram of this nature. He then again explained that it would be necessary for me to send the telegram requesting that he be allowed to make the trip, otherwise he would not be allowed to go. I then said, "All right, but I will dictate my own telegram." He replied, "All right," and tore his telegram up, as I remember. I then rang for Lieut. John Naughton of my command, who does my official shorthand work. He came in to the office and I dictated a telegram to him in which no mention was made of Mr. Bielaski's name, and in which I stated that the information received might not be authentic. Captain Evans did not like the way this telegram was worded and he said he would dictate a telegram as he was familiar with the manner in which Col. Van Deman wanted telegrams worded. I said, "All right," and Captain Evans then started to dictate to Lieut. Naughton. After he had dictated the first sentence, which was to the effect that we had information in the Jean Crones' case, I wished to insert a few words, but Captain Evans did not want me to do this, so I decided not to interfere with him further until the telegram was dictated, and I arose from my desk and went to the toilet room and allowed him to dictate the telegram to Lieutenant Naughton. When I came from the toilet room he was still dictating the telegram. The door to my private office had been closed up to this time. I opened the door to see who was waiting for me in my reception room and found several persons, among whom were some aldermen. I walked out of my private office and talked to the aldermen. I did not see the telegram which was sent at all, neither did I hear any of it dictated except the first sentence, as stated above.

The Emma Goldman Papers

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Col. Carl Reichmann.

When I got through with my conversation with the aldermen, Captain Evans had gone without saying good bye or asking me a word about the telegram. I thought it strange and called Lieutenant Naughton and asked him where Captain Evans had gone and if he was coming back. Lieutenant Naughton replied that he did not know where Captain Evans had gone; that he had left the latter sitting in my private office, and I said it was very strange that he would go away like that without saying good bye. I asked Lieutenant Naughton "Did he take the telegram?" Then Lieutenant Naughton replied, "He must have taken it as I left the telegram on the desk and now it is gone." X

On Sunday, Sept. 30, I received a telephone call at my home from Captain Evans. He stated to me that he was going to leave for New York and asked me if I could not go along with him. I stated that I did not see how I could, and that from information I had received Reitman's case in Cleveland was to be continued and that I still thought that he would come to Chicago. He said, "I don't believe it; you had better come along with me." I said, "I cannot go and I would not go because I am informed on good authority he will not be in New York when we would get there". He said, "I will take a chance." I then said to him, "If Reitman comes from Ohio to Chicago I will wire you, and I will also keep you posted if he goes back to New York." On Wednesday, October 3rd, 1917, I received the following telegram from Captain Evans:

"If you have heard anything wire me care Waldorf Hotel New York. (Signed) Captain W.K. Evans."

I immediately ordered Sergeant Make Mills of this department who has been detailed on anarchist work in my office for the past 15 years, to make an investigation to locate Reitman's whereabouts and ascertain whether or not he had been incarcerated in Ohio. Sergeant Mills reported to me the next day that he was unable to locate Reitman, that Reitman was not incarcerated in Ohio, but was supposed to be in New York. I then wired Captain Evans, care of the Waldorf Hotel, as follows:

"Nothing new. Man was not in duress. Whereabouts at present unknown but supposed to be in New York. Will be in Chicago in a short time. Advise not to approach him on subject. (Signed) H.F. Schuettler, General Supt. of Police."

The Emma Goldman Papers

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Col. Carl Reichmann

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On October 5, 1917, I received the following telegram from Captain Evans:

"Your wire received. See my last telegram. Is there any chance your coming N Y? If not, advise me immediately in order I can make connections here. Our friend here indefinitely. Can locate him tonight. Advise what action for me to take. What to follow your instructions explicitly (Signed) Captain W. K. Evans."

This telegram was forwarded to my home at 2:40 A. M., October 5, 1917. Upon reading the same closely it gave me the impression that if I did not go, Captain Evans would make other arrangements. The words, "Is there any chance your coming N. Y.? If not, advise me immediately in order I can make connections here," indicated to me that Captain Evans was probably going to take a third party into the matter to see if they could get a statement from Reitman, and knowing Reitman's disposition and temperament, I felt that the whole matter would be spoiled if Captain Evans took this step. The telegram being of such strong nature, it made me feel that I would not be doing my duty as an officer if I did not go to New York, although at that time I had tickets purchased for a trip for myself and wife to San Augustine, Texas, and our trunks were packed for this trip. I then forwarded Captain Evans the following telegram:

"Am leaving on Century at 12:40 today. Don't say a word to anyone that I am coming to New York. My identity must absolutely not be known in that city. Meet me at depot. (Signed) H. F. Schuettler, General Supt. of Police."

The reason I did not wish my identity to be known was that I was afraid that it would leak out and the papers would publish a statement that I was in New York and I would be hounded by members of the press which would interfere with my work and would probably keep Reitman from meeting me. In answer to this telegram I received the following from Captain Evans:

"Please advise me time your arrival here also road you are taking. Instructions in your wire will be complied with. (Signed) W. K. Evans."

The Emma Goldman Papers

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Col. Carl Reichmann

At this point I wish to call attention to the fact that in my last telegram quoted above, in which I stated that I was going to New York, I said I was leaving on the "Century at 12:40." This is a well known train on the New York Central Lines and I thought would be sufficient for anyone making an inquiry as to the time of the arrival of the train if he did not know of the same. In answer to Captain Evans' last telegram I wired him as follows:

"Will arrive Grand Central Depot 9:40 A.M., Saturday, October 6."

I left Chicago for New York, in accordance with my telegram, on October 5, 1917, and on the train going to New York I wired my office to advise me where Reitman would most likely be found in New York City. Sergeant Mills then telegraphed me, care of Captain Evans, Waldorf Hotel, as follows:

"Party 'Mother Earth' 22 Lafaette, letter general delivery. (Signed) Mills."

On my arrival in New York I met Captain Evans at the depot. We proceeded to the Waldorf Astoria Hotel where my baggage was checked. We decided to go to a quiet place which would not cause any suspicion to Reitman, and also where we would be out of the way from being molested by reporters or anybody else. We left the hotel and while walking on some street Captain Evans pointed out to me the Long Acre Hotel, stating that he had stopped there at one time and that it was a quiet inconspicuous hotel. I registered there and we obtained a room on the second or third floor. Captain Evans and I talked the matter over, and as I knew Reitman was connected with the publication "Mother Earth", of which Emma Goldman was the editor, we decided to call up "Mother Earth", which magazine was also mentioned in the telegram sent to me by Sergeant Mills. I do not recollect whether I received Sergeant Mills' telegram before I registered at the Long Acre Hotel or between my two meetings with Reitman. I directed Captain Evans to call them up, as he (Reitman) would not recognize his voice, and to tell Reitman that there was a friend of his here from Chicago who wanted to talk to him. Captain Evans called "Mother Earth" on the telephone and said, "Hello, is that you, Ben Reitman? There is someone here who wants to talk to you." I then went to the telephone and said, "Reitman, don't repeat anything I say and I will tell you who this is. You listen to what I have to say and

The Emma Goldman Papers

[Letter] 1917 Dec. 6, Chicago [to] Carl Reichmann, Intelligence Officer [Military Intelligence Division, War Department], Chicago / H.F. Schuettler, General Superintendent, Chicago Police Department. — 11 p. ; 28 x 22 cm.

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Col. Carl Reichmann

you say nothing, at least don't let any one know who is talking to you. This is Schuettler." He answered, "Chief, I recognize your voice." I said, "You are a damn fool, you had to spill the beans immediately. I told you not to mention my name." I then told him where we were and that I wanted him to come to see me. It was then about 11:20 A.M., October 6, 1917, and informed him that I would be standing in front of the hotel. He said to me, "Is everything on the square?" and I replied, "I never told you anything that was not on the square, have I?" and he said, "No". I said, "You come on and you need not fear anything, everything is all right. I never told you any lies." He said, "I know that, and I will come over as soon as I can." Captain Evans then departed, not wishing to be present as we considered that I could handle Reitman better and he would have less fear in making any statements to me alone than he would in the presence of a man he did not know at all. I had a long talk with Reitman, and I told him there was a reward of \$1,000.00 if he could turn up Crones, and that he could have the entire reward as I had never taken a reward from anyone, if he could tell us where he was. I told him I did not think that he believed in having a man at liberty who had tried to do such a dastardly act as Crone had done; that I had always been under the impression that he (Reitman) was a philosophical anarchist, and Reitman replied he knew that he (Reitman) had done a lot of good while in the anarchistic movement, that some of the radicals had been tamed by him and that he probably had saved human life, but that he had not seen Crone for nine or ten months, and did not know where he was. He said, however, he would do anything he could to assist me as he did not believe in an act of the kind committed by Crones. He further stated that Crones might be dead or might be fighting across the waters, but if he was in this country the only way he could see was for me to ascertain who was the editor and business manager of the official organ of the I.W.W. "Solidarity", and that if the same man whom he knew was still there he could get a personal ad in this publication that he thought Crones might answer, provided the latter was among the living and in this country. I then informed him that a number of the officials and members of the I.W.W. had been arrested and the paper taken possession of, but that I would endeavor to obtain the information desired, and I at once wired my Secretary to locate the office of "Solidarity" in the city, and obtain the names of the business manager and editor. This was on Saturday, October 6, 1917, and my secretary had not ascertained this information when I arrived in Chicago on Sunday, Oct. 7, 1917. I then told Reitman that I had another gentleman with me, Captain W.K. Evans of the United States Army, and I thought that the three

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Col. Carl Reichmann

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of us ought to have a talk together, and Reitman said that he had no objection, and requested to know what time he could meet us. I asked him if five o'clock that day would be all right, and he said it would. Captain Evans and I met him at the time specified, and Reitman made about the same statement to the both of us as he made to me prior thereto, and both Captain Evans and I tried to induce him to give us more facts, accusing him of knowing more than he was telling us, which he absolutely denied. Captain Evans then tried to persuade him to be a general informant for him, stating that he must know where there were dynamite bombs, when they were to be used, and wanted to meet Reitman at the hotel the next morning when they could arrange some plan. Reitman absolutely denied having such knowledge as the Captain stated and informed Captain Evans that there would be no use of meeting as he could not give any information. Captain Evans was very insistent that Reitman meet him, and finally Reitman consented. When Reitman had left I informed Captain Evans that Reitman had been an anarchist for 12 years, and that he had his own ideals, and that I doubted very much --- even if he did know anything --- whether or not on such short acquaintance with Captain Evans he would impart this information to him or anyone else. The Captain said, "O he will tell me all about it; he and I will get along fine. I have handled such fellows before."

I took the train for Chicago Saturday night at 8:30, arriving in Chicago Sunday night, about 8:25.

A few days afterwards I received a letter from Reitman stating that he had no information and that if he did, he would not like to betray anyone. I do not remember the whole contents of the letter, but he informed me he had sent a similar letter to Captain Evans.

On Nov. 16, 1917, I received a communication from Hinton G. Clabaugh, Division Superintendent, Bureau of Investigation, U. S. Department of Justice, which reads as follows:

"Information has come into my possession to the effect that on Sept. 29, 1917, you sent a telegram ^{to} Lieutenant Colonel R. H. Van Deman, care of the War College, Washington, D. C., as follows:

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Col. Carl Reichmann

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" Captain Evans and I have information which we believe will lead to apprehension Jean Crones. Crones is man poisoned number of our best citizens attending Arch-Bishop Mundelein banquet at University Club. See Department Justice files. I have what I believe authentic information that has been instrumental in destruction munition plans other Government property. Evans has information he is planning new destruction at present time. His apprehension would necessitate Captain Evans going with me New York City for two or three days. I understand he cannot leave Department limits without your orders or recommendation to Department commander. Want to leave tomorrow morning if possible via Washington. Wire Evans, he will inform me. Do not inform Bielaski our plans."

"Notwithstanding the foregoing, I am loath to believe that you could have personally sent or approved a message of this character. In the first place it indicates that you knew the Department of Justice had information on this case and had been, or was, making an investigation thereof. To be perfectly frank with you, the last sentence is what cuts me deeply; in plain English it indicates that you do not trust either me or the Chief of our Bureau.

"Let me assure you that this Bureau desires at all times to co-operate with every branch of state or Federal service in the detection and prosecution of crimes.

"A considerable investigation was made of the Crones matter by this Bureau, and as a matter of fact, the very story which caused Captain Evans to proceed to New York was well known to me weeks ago. It is a story that was passed around to the several newspaper reporters with reference to an anarchistic person in New York who was thought to be in communication with Crones. I had personally informed Captain Evans that a committee of business men and the University Club of Chicago were prepared to pay \$5,000.00 reward for information leading to the apprehension

The Emma Goldman Papers

[Letter] 1917 Dec. 6, Chicago [to] Carl Reichmann, Intelligence Officer [Military Intelligence Division, War Department], Chicago / H.F. Schuettler, General Superintendent, Chicago Police Department. — 11 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Schuettler explains his participation in a scheme to get Reitman to disclose the whereabouts of Jean Crime, a suspected poisoner.

Col. Carl Reichmann

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of Cronos.

"Federal Judge Carpenter was vice president of the University Club at the time of the poisoning and is familiar with the material facts.

"The police officers from your department regularly detailed to assist this Bureau have rendered invaluable assistance, and the Chief of our Bureau has expressed to you in writing the Department's grateful appreciation for the splendid co-operation of your department. You and I have been on the closest terms and I have counted you as one of my best friends personally and officially. We have successfully worked together on practically everything and this district has been kept clean. Your co-operation on registration day and in running down so-called slackers and other violators has been efficient and satisfactory to the highest degree.

"If, for any reason, you have lost faith in this Bureau, or any of its employees, I earnestly hope in the interest of harmony and the successful prosecution of our duties during such a crisis that you will acquaint me with the facts."

Under date of November 19, 1917, I replied to Mr. Clabaugh's communication, and the following is a copy of my reply:

"Permit me to acknowledge receipt of your communication of November 16.

"I note your statements with reference to our working together in harmony and the details I have made to your department, and I desire to say that all this was done with one object in my mind, viz., that I was aiding our government and protecting our city against any overt acts which might be committed by alien enemies. I am very proud of the work we did together, and I also feel proud of your friendship and the kind expressions contained in your letter.

"With reference to the telegram mentioned therein, inasmuch as it pertained to a matter which originated with the Intelligence Division of the United States Army, a member of which, Captain W. K. Evans came to me (and not I to him) concerning the same, and as I would very much dislike to be put in the position of not keeping secret and sacred the work I did for the Intelligence

The Emma Goldman Papers

[Letter] 1917 Dec. 6, Chicago [to] Carl Reichmann, Intelligence Officer [Military Intelligence Division, War Department], Chicago / H.F. Schuettler, General Superintendent, Chicago Police Department. — 11 p.; 28 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Schuettler explains his participation in a scheme to get Reitman to disclose the whereabouts of Ieno Crowe, a suspected poisoner.

Col. Carl Reichmann

-11-

Division, the same as I do with work which I perform for your Bureau, I would suggest that Lieutenant Colonel R. H. Van Deman, the head of the Intelligence Division, secure a detailed report from Captain Evans as to the events leading up to the sending of the telegram, what transpired at his conference with me in the matter, the details of his trip to New York, on or about Sept. 29, 1917, and mine following on October 5, on receipt of urgent telegram; and after Lieutenant Colonel Van Deman has received Captain Evans' report, have him request me to furnish him with my report in the matter. I feel that I owe Lieutenant Colonel Van Deman the courtesy and obligation of making any report in the matter to him. I make this suggestion believing, of course, that Mr. Bielaski is in a position to ask Lieutenant Colonel Van Deman to request these reports.

"As an alternative I would suggest that after Lieutenant Colonel Van Deman receives the report of Captain Evans, if he so requests, I would be willing to go to Washington and bring with me the member of my force who took the dictation in the matter and was present during the greater part of the conference, and there in the presence of Lieutenant Colonel Van Deman, Mr. Bielaski, and any others whom they might desire to have present, go into matter in detail, so that Mr. Bielaski would be satisfied that there was no distrust on my part of either you or him.

"I have the highest confidence in and regard for Mr. Bielaski, yourself and the other members of your Bureau, and have so stated both publicly and privately on a great many occasions, and during my thirty-five years of continuous service in the Police Department I have endeavored to work in harmony with every department, be it city, state or governmental."

I enclose herewith photographs of telegrams quoted above, and also report of Lieutenant John J. Naughton in the matter.

Respectfully,

H.F. Schuettler
General Superintendent.

N-111

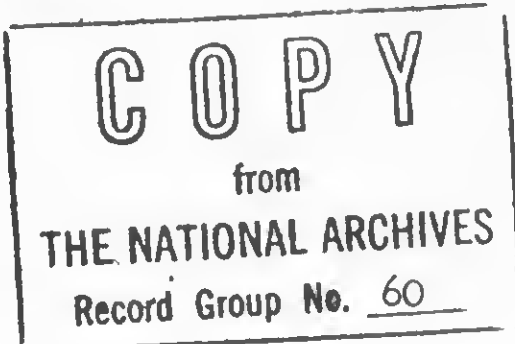
The Emma Goldman Papers

810113268

[Letter] 1917 Dec. 6, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey returns an edited copy of the solicitor general's brief in Goldman's appeal and requests an extra copy for Judge Mayer.



Records of the Department of Justice
Central File Number 186233-13 (Section 1)

ADDRESS REPLY TO
"UNITED STATES ATTORNEY"
AND REFER TO
INITIALS AND NUMBER

Department of Justice

United States Attorney's Office

15330

New York

December 6, 1917.

Hon. John W. Davis,
Solicitor General,
Department of Justice,
Washington, D. C.

Dear Mr. Davis:

I received this afternoon the galley proof of your brief in the Selective Draft Act cases and return it herewith.

Your argument is excellent and most convincing. Certainly, I can make no suggestion for strengthening it. I have marked in pencil in the margin a few queries as to typographical errors. Mr. Content was unavailable and has been unable to read the brief.

Judge Julius M. Mayer, who tried the two cases from this district, recently asked that a copy of your brief be sent him. I shall also be obliged for a copy.

Very truly yours,

Francis G. Caffey

United States Attorney.

Enclosure.

186233-13-72

U.C. 13 P.M.

12-11-17

12/12/17
Caffey & Judge Mayer
copies sent to Mr.

The Emma Goldman Papers

[Agent Report] In re: Peace Meeting at Star Casino, Park Avenue and 107th Street — Violation Espionage Act, N[ew] Y[ork] 1917 Dec. 7 / [W?] T. Sanders [Agent, Bureau of Investigation, Department of Justice]. — 1 p. ; 33 × 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Sanders reports that the peace meeting he attended was seditious in spirit if not in fact. He believes the Justice Department should suppress Goldman's next public meeting in New York.

-5-

JOC.

DEC 13 1917

REPORT MADE BY: T. Sanders	PLACE WHERE MADE: N. Y. City	DATE WHEN MADE: Dec. 7, 1917	PERIOD FOR WHICH MADE: Dec. 4.
--------------------------------------	--	--	--

TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION:
IN RE: PEACE MEETING AT STAR CASINO, PARK AVENUE AND 107TH STREET, --Alleged Violation Espionage Act.

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:

Pursuant to orders of Assistant Division Superintendent Baker, I accompanied Special Agents Kropidowski and Borchard to the Casino, 107th Street, where we covered a peace meeting there.

The actual words spoken at this meeting, taken by themselves, would not be seditious or harmful, but the spirit in which they were spoken, and the ulterior meaning which the speakers endeavored to convey, was seditious, and in my estimation is dangerous at this time. Agent Kropidowski is making a more detailed report on this meeting. I shall help him in the compilation of the report.

It was announced at the meeting last night that there would be a celebration at the Harmon Casino, on Friday, Dec. 14, where Berkman and Emma Goldman would appear. There is also to be another meeting at Terrace Garden, 58th Street, and Lexington Avenue, on December 19. I think it quite expedient that we suppress these anticipated celebrations and meetings.

COPY OF THIS REPORT FURNISHED TO:

• 7-877

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The Emma Goldman Papers

[Agent Report? In re: "The Masses" Annual Costume Ball, New York, 1917 Dec. 8?]
 / [Agent? Military Intelligence Division? War Department?]. — 1 p. ; 28 x 22 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 165.
 Summary: A press release for *The Masses* ball announces that Goldman will be among those present.
 Notes: Typed and handwritten corrections.

is matter - Release at once

Rose Richman, Mgr., 63 Fifth Ave.,
 Stuyvesant 3620

OFFICE OF STAFF
 WAR COLLEGE DIVISION

PROCEEDS OF "MASSES" BALL ON FRIDAY NIGHT TO BE USED FOR

DEFENSE FUND OF INDICTED EDITORS. WAR DEPARTMENT

Indicted Editors to attend Fifth Annual
 Costume Ball

According to a statement issued by the indicted editors of
 "The Masses", pending ~~action~~ ^{action} by Mr. Burleson, they are going
 to enjoy themselves on Friday night next.

"We have nothing definite to say about 'The Masses' at this time," one of them
 said. "We are simply awaiting the action of the postmaster general.
 In the meantime, on Friday night, we will ~~meet~~ ^{greet} our old friends and
 make merry. Last year we made a big night of it; this year we are
 assured of a crowd that will be too large for Tammany Hall."

Max Eastman, editor of the suppressed monthly radical sheet,
 his four "fellow criminals" will be at the ball on Friday
 night - Art Young, ^{cartoonist} Floyd Dell, Managing Editor, and Merrill Rogers,
 Business Manager; Glint (for short) is expected to ~~make~~ ^{stage} a mysterious
 appearance. He has been hibernating.

Four score and a hundred prominent men and women will also be
 present. Among them ~~will be~~ ^{are} Amos Pinchot, Emma Goldman,
 Stuart Davis, all Greenwich Village and the artist and literary
 editors of "The Masses" with their friends and relatives.

The proceeds are to be used in two ways: first, to pay the
 bills of the suspended magazine; secondly, to swell the fund to be
 used for the defense of the five indicted men.

Tickets are to be obtained from Rose Richman, Mgr., 63 Fifth
 Avenue, Stuyvesant 3620 or from "The Masses", 34 Union Square.
 They are 75¢ each in advance; \$1.00 at the door. Boxes, of which
 there are only 20, seat parties of six and are \$12.00 each, includ-
 ing admission.

Sympathizers, followers and enemies of "The Masses" will assemble
 for the first time since the declaration of war on Friday night. at
 Tammany Hall. *to forget their differences*

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The Emma Goldman Papers

[Report on I.W.W. Anarchists—Pacific Coast] Los Angeles, 1917 Dec. 9 / [Agents] 101 and 102 [Military Intelligence Division, War Department]. — 1 p.; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Undercover agents 101 and 102 describe the activities of various Los Angeles anarchists and I.W.W. members, including Goldman's friends, Isadora Duncan and Gertrude Barrell.

Notes: For related documents, see 810402011 through 810402016 and 850205099.

Los Angeles Calif. Dec 9, 1917

Enc. 3
OFFICE OF THE
MILITARY INTELLIGENCE DIVISION
1917

10110-564
4

Since the last report we have been in daily association with members of the Anarchist Society and have learned the following:

Julius Hess, the newspaper reporter who has been in hiding here, has left Los Angeles, and the indications are that he has joined a group in San Diego, where they seem to be congregating, probably for the purpose of getting across the line into Mexico, if possible. We met an active red by the name of Billie Bell, a woman. She is living with a man named Howard Shefley. This man is one of the most active members of the I. W. W. and a sabotage worker. He is in hiding here at this time. We also learn that one of their active workers named Mollie Cook was arrested in San Diego this week, and they think a lot of correspondence was secured with her which will implicate many of her associates here, and they are anticipating further arrests as a consequence. Saturday night we were at dinner with a party of Reds, and among the number was a woman named Gertrude Barrett who is employed at Lasky's Moving Picture Studio. She lives in the neighborhood of Fourth and Grand Avenue but we do not know the exact location, and she is not giving this information at this time, owing to the fact that she was recently notified that the Hill Top Club, an anarchist organization, would have to discontinue their meetings at her place. They had been using her place for their meetings since giving up their permanent headquarters. Gertrude Barrett is a close friend of Ben Reitman, Emma Goldman and all the leaders of the anarchist movement, and is in touch with them at all times. She reports that Murray Schloss, whom the Hindu Hari Singh wanted Agent No. 101 to see for him, is now in hiding, that he is the president or chairman of the Hill Top Club. Another member of the dinner party was a woman named Pauline Katz, who is a nurse in a hospital. She is reported to be a very active member of the I. W. W. and one on whom they can depend at all times. She is also in close touch with the higher ups, and in communication with them as well as with the sabotage workers, who are her personal associates. There seems to be a feeling that many of the dangerous Reds are drifting toward San Diego for some purpose, we do not know what. Agent No. 102 entertained a couple of Radicals at a matinee performance of Isadora Duncan, the noted dancer, and learned that Isadora Duncan is a radical and a close personal friend of Emma Goldman. Members of the theatre party pointed out many Reds who were in attendance, and when Miss Duncan portrayed the Spirit of the Marseillaise, it was explained to the Agent that the Marseillaise has been adopted by the Radicals all over the world as their patriotic anthem, it being born in the French Revolution, and the radicals sing this anthem at all their secret meetings, and it is a common thing to hear it sung in many different tongues at once. Incidentally, it will be noted that Isadora Duncan when dancing the Marseillaise wears a red costume, and the radicals claim that the reason for this is that this color is the adopted emblem of the Anarchist Society. The last number on her program was the Marseillaise, and instead of responding to the encores with a little dance number, as is her custom, she came before the curtain dressed in her red costume, and said she was glad that the audience had caught the spirit of the Marseillaise, that it would have an awakening power, and would bring all nations together, and the time would come when we all would stand hand in hand. The Anarchists interpreted these remarks to mean the revolutionary spirit of the Marseillaise, and thought she was very daring to say what she did. Miss Duncan announced that she was coming to Los Angeles to locate with her dancing girls.

Respy

101-102

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The Emma Goldman Papers

[Letter] 1917 Dec. 10, New York [to] Ralph H. Van Deman, Chief, Military [Intelligence] Division [War Department], Washington, D.C. / W[illiam] A. Pinkerton. — 1 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Pinkerton forwards his nephew's report related to a plot to assassinate government officials and urges the head of Military Intelligence to keep the matter confidential.

Notes: Light copy. For enclosure, see 850205025. For related document, see 800519031.

W. A. Pinkerton,
211 South Fifth Avenue,
Chicago.

New York, December 10th, 1917.

My dear Colonel:

When I saw you a day or two ago I intended handing you extract of report received from my nephew, from one of our secret operatives, and I enclose the same to you herewith.

The people mentioned in this report are very dangerous characters, especially Miss Winner who has stated at meetings of the organization of which she is a member, that she would kill the President.

While I am not an alarmist, I feel it my duty to advise you regarding this matter.

This is one of the matters I meant to take up with you; please consider the same as confidential. You cannot be too careful as to whose hands reports of this kind pass through, as it might expose some secret work that we are engaged upon.

Any detective work you may have to give out, we are at your disposal at any time.

I expect to be in New York for a few days, and our office address in New York is 392 Liberty Street. My address is #137 South Fifth Avenue, Chicago, Ills. However, my nephew, Mr. Allan Pinkerton, who is here, under our relationship, and is more than anxious to cooperate with your division.

With best wishes,

Sincerely yours,

W. A. Pinkerton

Col. Ralph H. Van Deman,
Chief Military War College, Division,
Washington, D.C.

RECORDED & INDEXED DEC 11 1917

G.

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The Emma Goldman Papers

[Pinkerton Report In re: Guillotine Plot, 1917 Dec. 10?] / [William A. Pinkerton?].

- 1 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Someone summarizes a report from Allan Pinkerton, which states that Goldman, with the Guillotine group, is organizing Committees of Five to plan simultaneous assassinations of public officials.

Notes: Enclosed with 850205024.

Extract of report received from Mr. Allan Pinkerton,
who states one of their informants recently while in Detroit
learned that Emma Goldman is assisting in organizing Committees of
five throughout the country, who are instructed to act at a given time
in various parts of the United States for the purpose of killing men
from the President of the United States down to the United States
District Attorneys and prominent politicians, and the day and hour will
be designated by one known as Louis Weitzenkorn and a Miss Winner,
both of New York, who are the active heads of an organization known
as the "Guillotine." Said two parties are actively organizing
with Emma Goldman.

Weitzenkorn was a former associate editor of the "New York
Call."

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The Emma Goldman Papers

800519000

Confidential Files [1917 Dec. 10 to 1918 Feb. 2 (cover page)] / Office of Naval Intelligence, Navy Department. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Notes: For enclosures, see 800519001, 800519002, and 800519005 through 8005198007.

38
Office Naval Intelligence
Comes File / 26940
98

No. 26940
98

NAVY DEPARTMENT
OFFICE OF NAVAL INTELLIGENCE
WASHINGTON

CONFIDENTIAL FILES

No. 26940
98

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The Emma Goldman Papers

800519001

[Reports on Hugh Cimore McClellan, Washington, D.C.? 19]17 Dec. 10 [cover page]
/ [Office of Naval Intelligence, Navy Department]. — 1 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: The Office of Naval Intelligence prepares an index of its reports on Hugh McClellan.

Notes: Dark copy. For enclosed reports, see 800519002 and 800519005 through 800519007.

D I G E S T S H E E T:

	Date:	Source:		File Number:
	5/1/19.	SUSPICIOUS ENLISTED PERSONNEL.		20940-98
		Subject:	HUGH MCCLELLAN	
PAGE	Date:	From:	To:	Remarks:
1	12/10/17.	SAN FRAN	ONI	RPTS. subj conn with ALEXANDER BERKMAN.
2	12/24/17.	ONI	SAN FRAN	Re subj.
3	1/14/18.	ONI	SAN FRAN	Re subj.
4	1/23/18.	SAN FRAN	ONI	Full name HUGH CIMORE MCCLELLAN.
5	2/2/18.	ONI	JUSTICE	Re subj assoc with EMMA GOLDMAN:TOM MOONEY.

FBI
JUN 1 1918

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The Emma Goldman Papers

800519002

[Memorandum] 1917 Dec. 10, San Francisco [to A.P. Niblack] Director [Office of] Naval Intelligence [Navy Department, Washington, D.C.] / W[illia]m C. Van Antwerp, Officer in Charge, Branch Naval Intelligence Office, Navy Department. - 1 p.; 27 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: Van Antwerp reports that Hugh McClellan, who enlisted in the Navy, is a personal friend of Berkman and Goldman.

Notes: For related reports, see 800519005 through 800519007.

In reply refer to No. 0108

NAVY DEPARTMENT
OFFICE OF NAVAL INTELLIGENCE
BRANCH OFFICE
BALBOA BUILDING
SAN FRANCISCO, CAL.

OFFICE OF
NAVAL INTELLIGENCE
DEC 17 1917
RECEIVED

CONFIDENTIAL

VA/FAK *AV*

December 10, 1917.

From: Officer-in-Charge, Branch Naval Intelligence Office, San Francisco

To: Director of Naval Intelligence

SUBJECT: HUGH McCLELLAN, Yeoman United States Navy.

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98
✓
A-2

1. This Office is informed that the above named person who is believed to have enlisted in the Navy at Philadelphia, is a personal friend of Alexander Berkman and the women with whom he is associated as publishers of the "BLAST." He is said to have obtained his position in the Navy through the influence of his uncle who is reported to be a paymaster in the Navy. He is a friend of Warren K. Billings, now under life sentence here for bomb throwing and of Thomas Mooney, now under sentence of death for the same offense. He is also said to be a friend of McDevit, prominent Socialist and pacifist, and of Emma Goldman.

2. McClellan is about 24 years of age, very dark complexion, 5' 9" tall, weight about 145 pounds, body very hairy.

3. As we have no means of verifying this information, which is furnished us by the Intelligence Office, U. S. Army, Western Department, San Francisco, we refer it to you for further investigation.



W. C. Van Antwerp

The Emma Goldman Papers

871221000

Goldman [&] Berkman v. United States . . . : Brief for the United States, 1917 Dec. 10
[excerpt] / John W. Davis, Solicitor General [Department of Justice].—
56 p. ; 22 × 27 cm.

Obtained from the University of California, San Francisco. Institutional Location: Hastings College of the Law.

Summary: In the consolidated challenges to the Selective Draft Act, Solicitor General Davis argues that the Act is constitutional.

Notes: Title page dark and barely legible. Fifty-six shots of 109 pages. For Weinberger's brief, see 871211000.

38

disapprobation and prejudice. It was of extreme importance to the defendants, in the impassioned state of their mind, that they ascertain beforehand and protect themselves by challenge in case any person drawn for jury service was fused them with the anarchists.

Respectfully submitted,

JOSEPH W. SHARTS,
MORRIS H. WOLF,
Attorneys for Plaintiffs in Error

(35532)

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45

The Emma Goldman Papers

8712210001

Goldman [&] Berkman v. United States . . . : Brief for the United States, 1917 Dec. 10 [excerpt] / John W. Davis, Solicitor General [Department of Justice].—
56 p. ; 22 x 27 cm.

Obtained from the University of California, San Francisco. Institutional Location: Hastings College of the Law.

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(1)

The Emma Goldman Papers

871221000

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871221(KK)

Goldman [&] Berkman v. United States...: Brief for the United States, 1917 Dec. 10 [excerpt] / John W. Davis, Solicitor General [Department of Justice].— 56 p. ; 22 x 27 cm.
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SELECTIVE DRAFT LAW CASES.

In the Supreme Court of the United States.

OCTOBER TERM, 1917.

CHARLES E. RUTHENBERG, ALFRED WAGENKNECHT, AND CHARLES BAKER,
PLAINTIFFS IN ERROR, } No. 656.
v.
THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF OHIO.

JOSEPH F. ARVER, PLAINTIFF IN ERROR, } No. 663.
v.
THE UNITED STATES OF AMERICA.

ALFRED F. GRAHL, PLAINTIFF IN ERROR, } No. 664.
v.
THE UNITED STATES OF AMERICA.

OTTO WANGERIN, PLAINTIFF IN ERROR, } No. 665.
v.
THE UNITED STATES OF AMERICA.

WALTER WANGERIN, PLAINTIFF IN } No. 666.
ERROR, }
v.
THE UNITED STATES OF AMERICA.

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*IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF MINNESOTA.*

LOUIS KRAMER AND MORRIS BECKER, PLAINTIFFS IN ERROR, v. THE UNITED STATES.	}	No. 680.
LOUIS KRAMER, PLAINTIFF IN ERROR, v. THE UNITED STATES.		
EMMA GOLDMAN AND ALEXANDER BERKMAN, PLAINTIFFS IN ERROR, v. THE UNITED STATES.		

*IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK.*

ALBERT JONES, APPELLANT, v. H. W. PERKINS, DEPUTY UNITED STATES MARSHAL, AND M. G. WHIT- TLE, JAILOR OF RICHMOND COUNTY, GEORGIA.	}	No. 738.

*APPEAL FROM THE DISTRICT COURT OF THE UNITED
STATES FOR THE SOUTHERN DISTRICT OF GEORGIA.*

BRIEF FOR THE UNITED STATES.

3

STATEMENT.

These cases are alike in that all of them are brought to this court by direct writ of error or appeal under section 238 of the Judicial Code. All of them assert as a basis for jurisdiction the unconstitutionality of the Selective Draft Law of May 18, 1917 (Public No. 12, 65th Cong.).

They are further alike in that the only section of that law with which any of the plaintiffs in error have so far come into collision is section 5, which provides—

That all male persons between the ages of twenty-one and thirty, both inclusive, shall be subject to registration in accordance with regulations to be prescribed by the President; and upon proclamation by the President or other public notice given by him or by his direction stating the time and place of such registration it shall be the duty of all persons of the designated ages, except officers and enlisted men of the Regular Army, the Navy, and the National Guard and Naval Militia while in the service of the United States, to present themselves for and submit to registration under the provisions of this Act; and every such person shall be deemed to have notice of the requirements of this Act upon the publication of said proclamation or other notice as aforesaid given by the President or by his direction; and any person who shall willfully fail or refuse to present himself for registration or to submit thereto as herein provided, shall be guilty of a misdemeanor and shall, upon conviction in the dis-

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trict court of the United States having jurisdiction thereof, be punished by imprisonment for not more than one year, and shall thereupon be duly registered: *Provided*, That in the call of the docket precedence shall be given to the courts trying the same, to the trial of criminal proceedings under this Act: *Provided further*, That persons shall be subject to registration herein provided who shall have attained the twenty-first birthday and who shall not have attained their thirty-first birthday on or before the day set for the registration, and all persons so registered shall be and remain subject to draft into the forces hereby authorized, unless exempted or excused therefrom as in this Act provided: *Provided further*, That in the case of temporary absence from actual place of legal residence of any person liable to registration as provided herein such registration may be made by mail under regulations to be prescribed by the President.

Thus plaintiffs in error Joseph F. Arver (No. 663), Alfred F. Grahl (No. 664), Otto Wangerin (No. 665), Walter Wangerin (No. 666), and Louis Kramer (No. 681) were indicted and convicted of having wilfully failed and refused to present themselves for registration or to submit thereto as in said section provided.

Appellant Albert Jones (No. 738) was taken before a United States Commissioner for the Southern District of Georgia upon a warrant charging the same offense, and, in default of bail, was committed to answer an indictment. He thereupon sued out

a writ of habeas corpus from the District Court of the United States for that district, which court, upon hearing, dismissed the petition. 243 Fed. 997. From this order he appeals.

Plaintiffs in error Charles E. Ruthenberg, Alfred Wagenknecht, and Charles Baker (No. 656) were indicted in the District Court of the United States for the Northern District of Ohio under section 5 aforesaid and section 332 of the Criminal Code upon the charge that they did unlawfully aid, abet, counsel, command, induce, and procure one Alphons J. Schue in unlawfully and wilfully failing and refusing to present himself for registration and to submit thereto; while plaintiffs in error Louis Kramer and Morris Becker (No. 680) and plaintiffs in error Emma Goldman and Alexander Berkman (No. 702) were indicted in the District Court of the United States for the Southern District of New York under section 5 aforesaid and sections 37 and 332 of the Criminal Code, and were convicted of the offense of conspiring to aid, abet, counsel, command, induce, and procure divers persons to wilfully fail and refuse to present themselves for registration and to submit thereto.

All of the cases challenge upon various grounds the constitutionality of the Selective Draft Act as a whole and of various provisions thereof. In some of the constitutional objections urged it is clear that none of these plaintiffs in error has any personal interest, since their rights have not yet been infringed.

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All of the objections are believed to be so without foundation, either in reason or precedent, that a motion to dismiss the writs of error and appeal as frivolous would properly lie.

In *Ruthenberg and others v. The United States*, No. 656, *Louis Kramer and Morris Becker v. The United States*, No. 680, and *Berkman and Goldman v. The United States*, No. 702, errors are assigned aside from the constitutional question. In the last two cases the sole additional question is whether the facts warranted the convictions. In the *Ruthenberg* case it is contended that various trial proceedings violated the Constitution. In all three cases, we submit that if the constitutional questions under the act are so lacking in merit as to warrant dismissal of the writs of error the other assignments must also.

The Government's brief, therefore, is divided into two parts: Part one, *the constitutionality of the act*, in which an effort is made to answer *seriatim* all the various grounds to the contrary which are urged by any of the plaintiffs in error; and, part two, *other errors assigned*.

PART ONE.

THE CONSTITUTIONALITY OF THE ACT.

BRIEF OF ARGUMENT.

I. Congress has power to raise armies for both domestic and foreign service by selective draft. Constitution, Article I, section 8.

1. The power "to declare war" includes the power to compel military service.

2. Congress may compel citizens to serve in the land forces under the power "to raise and support armies."

(a) That the power to compel military service is an incident of sovereignty appears from the custom of nations.

(b) The compulsory draft was a normal method of raising armies in the United States at the time the Constitution was adopted.

(c) The history of this clause in the Convention shows a definite intent not to limit the Nation to voluntary enlistments.

(d) The history of the times shows that a prime object of the Constitution was to cure the impotence of the Continental Congress directly to require military service from the citizens of the States.

(e) Our national history demonstrates the existence of the power by its exercise.

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(f) The decisions of the courts uniformly recognize the power of the Government to compel military service.

(g) There is not, as asserted, any common-law right of a soldier not to be sent out of the country.

II. The Selective Draft Law infringes no provision of the Constitution concerning the militia.

1. A citizen is not exempt from military service in the National Army merely because he is also a militiaman.

(a) The power granted to Congress over the militia of the States (Constitution, Art. I, sec. 8, clauses 16) is not in limitation but in extension of the power to raise an army (clause 12).

(b) The draft of a citizen into the armed forces of the United States infringes no reserved right of the States over the militia.

2. Constitutional restrictions concerning military service are not material in these cases because the duty enforced by the draft law is not that of militiamen but of citizens.

(a) Plaintiffs in error were drafted not as militiamen but as citizens of the United States.

(b) Members of the National Guard also are called out, not as militiamen but as citizens of the United States.

3. Assuming *arguendo* that plaintiffs in error were called as militiamen and are ordered abroad, they can not obtain relief in the courts.

III. The Selective Draft Law imposes neither slavery nor involuntary servitude.

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IV. The act is not unconstitutional on the ground that State officials aid in its enforcement.

V. The act does not delegate legislative authority to administrative officials.

VI. The act does not infringe the provisions of the Constitution concerning the judicial power. Article I, section 8, clause 9; Article III, sections 1 and 2.

VII. The due process clause is not violated.

VIII. The Selective Draft Law neither establishes a religion nor prohibits its free exercise.

IX. Other constitutional questions under the act.

ARGUMENT.

I.

CONGRESS HAS POWER TO RAISE ARMIES FOR BOTH DOMESTIC AND FOREIGN SERVICE BY SELECTIVE DRAFT. CONSTITUTION, ARTICLE I, SECTION 8.

The highest duty of every citizen is to serve his country in time of need. The duty of the arms-bearing population to respond to the call of the Nation is inherent in the nature of citizenship. The obligation has been explained as in the nature of an implied contract. In the early constitutions of five States it was agreed that the individual consents to render military service in return for protection to life, liberty, and property (*infra*, p. 18). Vattel, whose "Law of Nations" appeared in 1758, on the other hand, emphasized the rights of the sovereign, rather than the duties of the subject. After stating that "no person is naturally exempt from taking up

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arms in defense of the State, the obligation of member of society being the same," he submitted that "society can not otherwise be maintained." Book 3, c. 2, secs 8 and 10. This obligation of citizen to his nation is fundamental and universally recognized.

It would be strange indeed if, alone among nations, the Government of the United States had ordained and established to "provide for the common defence" and to "secure the blessings of liberty to ourselves and our posterity," were prohibited its organic law from using those means approved by the common experience of mankind as essential to such protection and security. It would be a contradiction in terms to declare the Government of the United States a sovereign, endowed with all powers necessary for its existence, yet lacking in the most essential of all—the power of self-defense. And it would be a melancholy reflection upon the Constitution making of 1787, coming as it did after the disastrous effects of the Confederation's lack of power to command directly the military service of the citizens of the States had been deeply felt, if the Government which then arose were no better equipped than its predecessor.

As might be anticipated, therefore, the Constitution is explicit in its grants of plenary power. Article I, section 8, provides:

The Congress shall have power—
(Cl.) 1. To lay and collect taxes, duties, imposts and excises, to pay the debts and

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provide for the common defence and general welfare of the United States; * * *

(Cl.) 11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

(Cl.) 12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

(Cl.) 13. To provide and maintain a navy;

(Cl.) 14. To make rules for the government and regulation of the land and naval forces;

(Cl.) 18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof.

The purpose of these wide grants of power was expressed in the preamble:

We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

1. The power to declare war includes the power to compel military service.

The power granted to declare war involves the power to carry it on successfully. The means necessary to that end are granted. Article I, section 8,

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clause 18, makes this clear. To quote again from Vattel:

As war cannot be carried on without soldiers, it is evident that whoever has the right of making war, has also naturally that of raising troops. (Book 3, c. 2, sec. 7.)

In *United States v. Sugar*, 243 Fed. 423, 436, the court, in quoting from *Kneedler v. Lane*, 45 Pa. St. 238, said:

* * * "The power to declare war necessarily involves the power to carry it on, and this implies the means, saying nothing now of the express power 'to raise and support armies,' as the provided means. * * * But the power to carry on war, and to call the requisite force into service, inherently carries with it the power to coerce or draft. A nation without the power to draw forces into the field, in fact would not possess the power to carry on war. The power of war, without the essential means, is really no power; it is a solecism."

2. Congress may compel citizens to serve in the land forces under the power "to raise and support armies."

As to method, the power conferred upon Congress to raise armies is as broad as language can make it. The only restriction refers to appropriations in support of the armies raised. There is no proviso such as plaintiffs in error seek to insert:

Provided, That no person shall be compelled to do military duty otherwise than by voluntary enlistment.

Nor is there any limitation in any other section of the Constitution.

We deal here, not with powers implied but with express grants. Congress is expressly empowered to use all means necessary and proper to the exercise of the power to raise armies. Any method may be employed within the discretion of Congress which does not in itself violate rights guaranteed by other clauses of the Constitution. Voluntary enlistment if deemed appropriate, may be tried. If under the circumstances Congress provides for a selective draft as the means considered necessary, the Constitution contains no prohibition. Authorization to employ either method is expressed.

In the classical language of the Chief Justice in *McCulloch v. Maryland*, 4 Wheat. 316:

(p. 407) * * * In considering this question, then, we must never forget that it is a constitution we are expounding.

(p. 409) The government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception.

(p. 415) * * * The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers, to insure, as far as human prudence

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could insure, their beneficial execution. . . . could not be done, by confining the choice of means to such narrow limits as not to leave in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in the constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs. To have prescribed the means by which government should in all future time, execute its power, would have been to change, entirely, the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances.

Only sheer hardihood would seriously deny that among the appropriate means to which Congress may resort in raising armies is the selective draft. Indeed, it requires no extended argument to show that it is not only an appropriate means but under the conditions of modern warfare the most prudent, just, and equitable method which can be employed. Under present conditions war is not a matter of men, but of nations. All of the resources of the

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combatants, human and material, are thrown into the scale. As it is in the power of the Government to compel, so it is the duty of all its citizens to give, regardless of personal preference, the service which they can most efficiently render. Those who bear the responsibility of leadership must have also the power to assign every citizen to the station he is best qualified to fill. The armies in the field must be equipped and maintained by the producers and artisans at home, and men must serve the one or the other purpose as the necessities of the occasion require. Nor is it any longer just to leave the performance of military duties only to the most ardent and patriotic, instead of distributing them with equity over the population as a whole. It can not be necessary to vindicate the legislative discretion by enlarging upon this theme.

(a) That the power to compel military service is an incident of sovereignty appears from the custom of nations.

The Constitution establishes the United States of America as a sovereign nation. In its field, to carry out powers expressly granted, it has all the rights of any similar sovereignty. These include, for instance, the power to take dependencies. *De Lima v. Bidwell*, 182 U. S. 1; *Mormon Church v. United States*, 136 U. S. 1, 42. Incident to its control over international relations, as every other nation, it may exclude aliens. *Fong Yue Ting v. United States*, 149 U. S. 698, 705-708, 711. Like other sovereigns, it may exercise the power of eminent domain. *United States v. Jones*, 109 U. S. 513,

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518. We may test its right to employ the power of conscription by the same comparison.

That compulsory military service is enforced by practically all the nations of the globe at the present time is a matter of common knowledge. Of this the court may take judicial notice. References properly and readily available to the court are as follows: *The Americana*, vol. 5, title "Conscription"; *Encyc. Brit.*, 11th ed., vol. 6, title "Conscription"; Pamphlet issued by Army War College, November, 1915, entitled "Statistical Comparison of Universal and Voluntary Military Service."¹

See the conscription act of Great Britain, entitled "Military Service Act," January 27, 1916, 5 and 6 George V, c. 104, p. 367; amended by the Military Service Act of 1916, May 25, session 2, 6, and 7 George V, c. 15, p. 33; the recent Canadian conscription act, entitled "Military Service Act" of August 27, 1917, expressly providing for service abroad (printed in the Congressional Record of September

¹ The Statesman's Yearbook for 1917 cites the following governments as enforcing military service: Argentine Republic, p. 656; Austria-Hungary, p. 667; Belgium, p. 712; Brazil, p. 738; Bulgaria, p. 747; Bolivia, p. 728; Colombia, p. 790; Chile, p. 754; China, p. 770; Denmark, p. 811; Ecuador, p. 820; France, p. 841; Greece, p. 1001; Germany, p. 914; Guatemala, p. 1009; Honduras, p. 1018; Italy, p. 1036; Japan, p. 1064; Mexico, p. 1090; Montenegro, p. 1048; Netherlands, p. 1119; Nicaragua, p. 1142; Norway, p. 1152; Peru, p. 1191; Portugal, p. 1201; Roumania, p. 1220; Russia, p. 1240; Serbia, p. 1281; Siam, p. 1288; Spain, p. 1300; Switzerland, p. 1337; Salvador, p. 1270; Turkey, p. 1353.

20, 1917, 55th Cong. Rec., p. 7959); the Conscription Law of the Orange Free State, Law No. 10, 1899; Military Service and Commando Law, sections 10 and 28; Laws of Orange River Colony, 1901, p. 855; of the South African Republic "De Locale Wetten en Volksraadsbesluiten der Zuid-Afr. Republiek," 1898, Law No. 20, pp. 230, 233, article 6, 28; Constitution, German Empire, April 16, 1871, Art. 57, 59; Dodd, 1 Modern Constitutions, p. 344; Gesetz, betreffend Aenderungen der Wehrpflicht, vom 11 Feb. 1888, No. 1767, Reichs-Gesetzblatt, p. 11, amended by law of July 22, 1913, No. 4264, RGBL., p. 593; Loi sur de recrutement de l'armee of 15 July, 1889 (Duvergier, vol. 89, p. 440), modified by act of 21 March, 1905 (Duvergier, vol. 105, p. 133).

The treaties of the United States afford further evidence of the prevalence of compulsory military service in other countries, for provisions are common in them which exempt consuls and citizens of the United States from military service in the forces of the treaty nation.¹ In several naturalization treaties

¹ See Malloy, Treaties, Conventions, etc. (1910), vols. 1, 2; edition by Charles (1913), vol. 3; Argentine Republic, 1853, Art. X, p. 23; Austria-Hungary, 1870, Art. II, 40; Belgium, 1880, Art. III, 95; Congo, 1891, Art. III, 329; Costa Rica, 1851, Art. IX, 344; Greece, 1902, Art. III, 856; Hayti, 1864, Art. V, 922; Honduras, 1864, Art. IX, 955; Italy, 1871, Art. III, 970; Japan, 1894, Art. I, 1029; Japan, 1911, Art. I, Charles, vol. 3, p. 78; Mexico, 1831, Art. IX, 1088; Paraguay, 1859, Art. XI, 1367; Roumania, 1881, Art. III, 1506; Serbia, 1881, Art. IV, 1615; Spain, 1902, Art. V, 1703; Sweden, 1910, Art. III, Charles, vol. 3, 113; Switzerland, 1830, Art. II, 1764; Salvador, 1870, Art. 29, 1560; Tonga, 1886, Art. IX, 1783; Venezuela, 1860, Art. II, 1846.

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also it is provided that citizens of the treaty nation in certain cases may be compelled to render military service on return to their original land.¹

(b) The compulsory draft was a normal method of raising armies in the United States at the time the Constitution was adopted.

The most reluctant must concede that the grant of power to raise armies includes the use of such means as were known and customarily exercised in this country in 1787. It is important therefore to note that the compulsory draft was expressly recognized in many constitutions of the several States, was enforced by the States for local purposes in calling out the militia, and also for obtaining levies to fill up the ranks of the Continental Army.

The constitutions of five States during the Revolutionary War period express the principle of universal military service. Article 8 of the constitution of Pennsylvania of 1776 provides:

That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service when necessary, or an equivalent thereto. (Thorpe, *American Charters, Con-*

¹ Austria-Hungary, 1870, Art. II (Malloy, vol. 1, p. 46); Baden, 1868, Art. II (*id.* 54); Belgium, 1868, Art. III (*id.* 80); Sweden and Norway, 1869, Art. II (*id.* 1760); Wurttemberg, 1868, Art. II (*id.* 1897).

stitutions and Organic Laws, vol. 5, pp. 3081, 3083.)¹

New Hampshire, in the constitution of 1784, part 1, article 13, provided:

No person who is conscientiously scrupulous about the lawfulness of bearing arms shall be compelled thereto provided he will pay an equivalent.² (Thorpe, vol. 4, p. 2455.)

Militia duty was imposed upon all arms-bearing citizens of the original thirteen States during the 18th century. This duty was not regarded as voluntary. Militia commanders were given discretionary power by the State statutes to detach or to draft militiamen either by classes or as individuals. Exemptions were

¹ See language almost precisely similar in the Constitution of Vermont, 1777, c. 1, Art. 9 (Thorpe, vol. 6, pp. 4747, 3740); Vermont, 1786, c. 1, Art. 10 (*id.*, vol. 6, 3753); Vermont, 1793, c. 1, Art. 9 (*id.*, vol. 6, 3762, 3763); New York, 1777, Art. 40 (*id.*, vol. 5, 2637); Massachusetts, Bill of Rights, 1780, Art. 10 (*id.*, vol. 3, 1891); New Hampshire, 1784, pt. 1, Bill of Rights, Art. 12 (*id.*, vol. 4, 2455); Constitution of New Hampshire, Bill of Rights, Art. 12 (*id.*, vol. 4, 2471).

² Similar provisions were in the constitutions of New York, 1777, art. 40 (Thorpe, vol. 5, 2637); Pennsylvania, 1776, art. 8 (*id.*, vol. 5, 3083); Vermont, 1777, c. 1, art. 9 (*id.*, vol. 6, 3740-41); Vermont, 1786, c. 1, art. 10 (*id.*, vol. 6, 3753).

Other provisions in the early constitutions for compulsory military service are as follows: Massachusetts, 1780, pt. II, c. 2, art. 7 (Thorpe, vol. 3, 1901); New Hampshire, 1784, pt. 2, Executive Power (*id.*, vol. 4, pp. 2463-2464); Delaware, 1776, art. 9 (*id.*, vol. 1, 562, 564); Maryland, 1776, art. 33 (*id.*, vol. 3, 1686, 1696); Virginia, 1776, Militia (*id.*, vol. 7, p. 3817); Georgia, 1777, art. 33, art. 35 (*id.*, vol. 2, 777, 782).

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granted usually for State officials and workmen engaged in peculiarly vital industrial pursuits and Quakers, Mennonites, and other conscientious objectors. The statutes are given in Appendix "A," p. 123.

The draft was several times appealingly recommended by the Continental Congress to the States as a means of recruiting the Continental Army. The Continental Congress, under the Articles of Confederation, articles 7 and 9, made requisitions on the States for quotas of men for the Continental battalions. Since the requisitions were not binding, the acts of the Congress took the form of suggestions to the States. The suggestions were earnestly made. The Journals of the Continental Congress afford ample demonstration that the draft was a normal method of raising armies at the time.¹

¹ On April 14, 1777, it is recorded:

"Resolved, That if the several quotas of the States not be furnished by any of the means recommended in the foregoing resolutions [bounties and exemptions to militia men who furnish recruits], or by any other means by the said legislatures devised before the 15th day of May, it is recommended to each State to cause indiscriminate drafts to be made from their respective militia.

"That it be recommended to the said legislatures to use all of the means by these resolutions recommended in the manner which they shall judge most effectual for speedily completing the army, and in case they shall prove unsuccessful, that they cause drafts aforesaid to be made." Vol. 1, Ford's edition, Library of Congress, pp. 262-263; vol. 1, edition by Way & Gideon, p. 91.

February 26, 1778: "Resolved, That the several States hereafter named be required forthwith to fill up by draft

Complying with the recommendations of the Continental Congress the States enacted statute after statute providing for drafting or detaching citizens

from their militia, or in any other way that shall be effectual, their respective battalions of Continental troops, according to the following arrangement: * * *

"That all persons drafted shall serve in the Continental battalions of their respective States for the space of nine months * * *." Journals of Congress, vol. 4, pp. 85 to 87; Folwell's Press, 1800. See Journals of Congress, edition of Way & Gideon, 1823, vol. 2, pp. 458, 459; Ford's edition, Library of Congress, vol. 10, pp. 199, 200.

March 9, 1779: "Resolved, That the above-recited clause of the said act of Congress [providing for bounties for voluntary enlistment] be repealed, and that it be earnestly recommended to the several States to make up and complete their respective battalions to their full complement by drafts, or in any other manner they shall think proper, and that they shall have their quotas of deficiencies ready to take the field, and to march to such place as the Commander-in-chief shall direct without delay." Folwell's edition, vol. 5, p. 70; Way & Gideon's edition, vol. 3, p. 223; Ford's edition, Library of Congress, vol. 13, p. 299.

Washington renewed his recommendation to Congress on November 18, 1779, for a draft as the means of maintaining the army. Sparks Writings, vol. 6, pp. 401, 404. Committee reports on the matter were made in Congress December 7, 1779. Ford's edition, vol. 15, p. 1358; Dec. 14, 1779, *id.*, vol. 15, p. 1376. An annual draft act passed in accordance with the recommendation of the Commander-in-chief on December 18, 1779. *id.*, vol. 15, p. 1393; edition by Way & Gideon, vol. 3, p. 413. A further draft act was passed February 9, 1780, Ford's edition, vol. 16, p. 150; Way & Gideon's edition, vol. 3, p. 432; Folwell's edition, vol. 6, p. 18.

A report that a spirit of enlisting among drafted men was taking place is made in vol. 3, Way & Gideon's edition, p. 38; Folwell's edition, vol. 4, p. 361.

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to fill up the Continental battalions. Appendix "C" *infra*, p. 131. These statutes, it is submitted, exclude the present cases in so far as they depend upon the meaning which the framers of the Constitution attached to the power to raise armies.

(c) The history of this clause in the Convention shows a definite intent not to limit the nation to voluntary enlistments.

In the Constitutional Convention of 1787 restrictions upon the grant of power to raise armies were proposed as amendments and voted down. The first drafts of the Constitution reported by the Committee on Detail empowered Congress "to make war, to raise armies, to build and equip fleets." Supp. to Elliot's Debates, vol. 5, pp. 378, 379, proceedings of August 6, 1787. On August 18 Messrs. Martin and Gerry moved to amend the clause as follows: "Provided, That in time of peace the Army shall not consist of more than ——— thousand men." The following proceedings are then reported:

Gen. Pinckney asked whether no troops were ever to be raised until an attack should be made on us.

Mr. Gerry. If there be no restriction, a few States may establish a military government.

Mr. Williamson reminded him of Mr. Mason's motion for limiting the appropriation of revenue as the best guard in this case.

Mr. Langdon saw no room for Mr. Gerry's distrust of the representatives of the people.

Mr. Dayton. Preparations for war are generally made in peace, and a standing force of

some sort may, for aught we know, become unavoidable. He should object to no restrictions consistent with these ideas.

The motion of Mr. Martin and Mr. Gerry was disagreed to *nem. con.*

(Farrand's Records of the Federal Convention, vol. 2, p. 323, 330; Supp. to Elliot's Debates, vol. 5, p. 443.)

On September 5, 1787, the limitation which now appears "But no appropriation of money to that use shall be for a longer term than two years," was added. Supp. to Elliot's Debates, vol. 5, pp. 510, 511; Farrand, vol. 2, pp. 505, 509, 570, 595. Mr. Gerry refused to sign the Constitution on September 15, giving as one of his grounds of objection that Congress would have the power to raise armies and money without limit. Elliot, vol. 5, p. 553.

The power to compel military service was even more precisely considered. Virginia and North Carolina and Rhode Island in ratifying the Constitution each submitted amendments to limit the power of Congress to raise armies by draft. Virginia proposed to limit the power over the religious objector. On June 26, 1788, she submitted an amendment for the consideration of the first Congress which should assemble under the Constitution, as follows:

[19th section of the Bill of Rights.] That any person religiously scrupulous of bearing arms, ought to be exempted, upon payment of an equivalent to employ another to bear arms in his stead. (Journals of Congress, vol. 13,

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Appendix, p. 176, Folwell's Press, 1868. Elliot's Debates, p. 659.)

An amendment in the same terms was submitted by North Carolina in ratifying the Constitution August 1, 1788. Appendix, Journals of Congress published by Folwell, 1801, vol. 13, p. 184 *et seq.* 4 Elliot's Debates, pp. 242, 244, 251, 252.

Rhode Island was more ambitious. On May 1, 1790, the Rhode Island convention proposed an amendment in terms substantially similar to the proposed by plaintiffs in error:

That no person shall be compelled to military duty otherwise than by voluntary enlistment, except in cases of general invasion anything in the second paragraph of the sixth article of the Constitution, or any law made under the Constitution, to the contrary notwithstanding. (1 Elliot's Debates, 336.)

The rejection of the many limitations proposed shows not only that the language employed in the Constitution was definitely intended by the Constitution makers to include the power to draft but also that this was the contemporary interpretation.

(d) The history of the times shows that a prime object of the Constitution was to cure the impotence of the Continental Congress directly to require military service from the citizens of the States.

Under the Articles of Confederation the Continental Congress was authorized "to agree upon the number of land forces and to make requisitions upon each State for its quota." The States were to appoint the regimental officers, raise the men, and clothe, arm

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and equip them in a soldier-like manner. Articles 7, 9. 1 Stat. 6, 7. No power over the individual citizens of the State was granted. The Congress had no means of enforcing its requisitions upon the States. 1 Stat. 6, 7. As a result the States responded to the calls of Congress as their own particular necessities dictated. The defect was the occasion of many expressions of anguish by the Commander-in-Chief. Sparks, Writings of Washington, vol. 7, pp. 442, 444. On August 20, 1780, in a letter to the President of Congress, Washington wrote with reference to a plan for providing soldiers:

The plan for this purpose ought to be of general operation, and such as will execute itself. Experience has shown, that a peremptory draft will be the only effectual one. If a draft for the war or for three years can be effected, it ought to be made on every account. (7 Sparks, Writings of Washington, p. 162.)

It is a thing, that has been all along ardently desired by the army, that every matter which relates to it should be under the immediate direction of Congress. The contrary has been productive of innumerable inconveniences. (7 Sparks, *supra*, 167.)

See also Upton, Military Policy of the United States, pp. 10, 13, 23, 42, 54. The situation during the revolutionary period is described in the Federalist No. 22, p. 143, as follows:

The power of raising armies, by the most obvious construction of the articles of the Confederation, is merely a power of making

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requisitions upon the States for quotas of men. This practice in the course of the late war, found replete with obstructions to a vigorous and to an economical system of defense, gave birth to a competition between the States which created a kind of auction for men. In order to furnish the quotas required of them they outbid each other till bounties grew to an enormous and insupportable size. The hope of a still further increase afforded an inducement to those who were disposed to serve to procrastinate their enlistment, and disinclined them from engaging for any considerable periods. Hence, slow and scanty levies of men in the most critical emergencies of our affairs, short enlistments at an unparalleled expense, continual fluctuations in the troops, ruinous to their discipline and subjecting the public safety frequently to the perilous crisis of a disbanded army. Hence, also, those oppressive expedients for raising men which were upon several occasions practiced, and which nothing but the enthusiasm of liberty would have induced the people to endure.

All these things were fresh in the minds of everyone. The first concern was to prevent their repetition.

Madison, in the forty-first number of the *Federalist*, wrote as follows (p. 276):

With what color of propriety could the force necessary for defense be limited by those who can not limit the force of offense? If a federal constitution could chain the ambition or set bounds to the exertions of all other nations, then indeed might it prudently chain the dis-

cretion of its own government and set bounds to the exertions for its own safety.

Hamilton also treated of the matter in the *Federalist*, especially in Nos. 22-25. In the twenty-third number he wrote (p. 152):

The authorities essential to the care of the common defense are these; to raise armies; to build and equip fleets; to prescribe rules for the government of both; to direct their operations; to provide for their support. *These powers ought to exist without limitation*, because it is impossible to foresee or define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them. The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. * * *

(p. 153) And unless it can be shown that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted, as a necessary consequence, that there can be no limitation of that authority which is to provide for the defense and protection of the community, in any matter essential to its efficacy—that is, in any matter essential to the formation, direction, or support of the national forces.

Defective as the present Confederation has been proved to be, this principle appears to have been fully recognized by the framers of

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it; though they have not made proper or adequate provision for its exercise. Congress has an unlimited discretion to make requisitions of men and money; to govern the army and navy; to direct their operations. As the requisitions are made constitutionally binding upon the States, who are in fact under the most solemn obligations to furnish the supplies required of them, the intention evidently was that the United States should command whatever resources were by them judged requisite to the "common defense and general welfare." It was presumed that a sense of their true interests, and a regard to the dictates of good faith, would be found sufficient pledges for the punctual performance of the duty of the members to the federal head.

The experiment has, however, demonstrated that this expectation was ill-founded and illusory; and the observations, made under the last head, will, I imagine, have sufficed to convince the impartial and discerning, that there is an absolute necessity for an entire change in the first principles of the system; that if we are in earnest about giving the Union energy and duration, we must abandon the vain project of legislating upon the States in their collective capacities; we must extend the laws of the federal government to the individual citizens of America; we must discard the fallacious scheme of quotas and requisitions, as equally impracticable and unjust. The result from all this is that the Union ought to be invested with full power to levy troops; to build and equip fleets; and to raise the revenues

which will be required for the formation and support of an army and navy, in the customary and ordinary modes practiced in other governments.

(c) Our national history demonstrates the existence of the power by its exercise.

The history of the Nation is appealed to by the plaintiffs in error as showing the lack of power to compel military service. Briefs, Nos. 663 to 666, pp. 10, 12, 36. The appeal is vain, for while, fortunately, occasions for the draft have been infrequent, it has been resorted to without flinching when the emergency arose.

It was largely by means of forced drafts that the War of Independence was successfully concluded. See Appendices "A" and "B," pp. 123, 131. Near the conclusion of the War of 1812 it seemed that a general draft to recruit the national forces would again be necessary. James Monroe, then Secretary of War, submitted a draft bill to Congress with an argument in its favor so unanswerable that it might well be adopted as the Government's argument on the present hearing. It is printed herewith as Appendix "D," p. 135.

During the Civil War the draft was resorted to upon both sides. President Lincoln declared his view of the matter in no uncertain terms. Said he:

The principle of draft, which simply is involuntary or enforced service, is not new. It has been practiced in all the ages of the world. It was well known to the framers of our Constitution as one of the modes of raising armies,

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at the time they placed in that instrument the provision that "the Congress shall have power to raise and support armies." It had been used just before in establishing our independence, and it was also used under the Constitution in 1812. Wherein is the peculiar hardship now? Shall we shrink from the necessary means to maintain our free Government, which our grandfathers employed to establish it, and our own fathers have already employed once to maintain it? Are we degenerate? Has the manhood of our race run out? * * *

With these views and on these principles I feel bound to tell you it is my purpose to see the draft law faithfully executed. (Excerpt from President Lincoln's unpublished address, Senate Report No. 22, 65th Cong., 1st sess., 55 Cong. Rec. 923, 924, 925.)

Revised Statutes, section 1998, carried forward from 1865 and amended by act of August 22, 1912, c. 336, 37 Stat. 356, provides for loss of citizenship by anyone "who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service."

Statutes providing for compulsory militia service have been in force from the beginning. See statutes in 17th and 18th centuries, Appendix "A," *infra*, p. 123. Similar present-day militia statutes of various States and Territories are collected in Appendix "C," *infra*, p. 133.

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The more important Congressional acts providing for drafting the militia are: Act of Feb. 28, 1795, c. 36, 1 Stat. 424, amended by act of April 18, 1814, c. 82, 3 Stat. 134 (see *Houston v. Moore*, 5 Wheat. 1, and *Martin v. Mott*, 12 Wheat. 19); and act of July 17, 1862, c. 201, 12 Stat. 597.

(f) The decisions of the courts uniformly recognize the power of the Government to compel military service.

Some *dicta* there are which, by reason of the facility with which they adduce illustrations as facts universally acknowledged, acquire the force of adjudicated cases. Of such character are the repeated passages in the opinions of this court recognizing the power of the Government to draft.

In *Tarble's* case, 13 Wall. 397, 408, holding that the State court has no jurisdiction to release an enlisted man in the hands of Federal officers, Mr. Justice Field said (p. 408):

Among the powers assigned to the National government is the power "to raise and support armies" and the power "to provide for the government and regulation of the land and naval forces." The execution of these powers falls within the line of its duties; and its control over the subject is plenary and exclusive. It can determine, without question from any State authority, how the armies shall be raised, *whether by voluntary enlistment or forced draft*, the age at which the soldier shall be received, and the period for which he shall be taken, the compensation he shall be allowed, and the service to which he shall be

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assigned. And it can provide the rules for the government and regulation of the forces after they are raised, define what shall constitute military offenses, and prescribe their punishment. No interference with the execution of this power of the National government in the formation, organization and government of its armies by any State official could be permitted without greatly impairing the efficiency, if it did not utterly destroy this branch of the public service.

In *Grimley's* case, 137 U. S. 147, 153, involving the validity of an enlistment of a soldier over age, Mr. Justice Brewer said:

The Government has the right to the military service of all its able-bodied citizens; and may, when emergency arises, justly exact that service from all.

See also *Presser v. Illinois*, 116 U. S. 252, 265; *Robertson v. Baldwin*, 165 U. S. 275, 282, *infra*, p. 65; *Jacobson v. Massachusetts*, 197 U. S. 11, 29, *infra*, p. 81; *Butler v. Perry*, 240 U. S. 328, 332, 333, *infra*, p. 64.

The Conscription Act of 1863 was held a valid exercise of the power to raise armies. *Kneedler v. Lane*, 45 Pa. St. 238; act of March 3, 1863, c. 75, 12 Stat. 731, amended by act of February 24, 1864, c. 13, 13 Stat. 6; act of July 4, 1864, c. 237, 13 Stat. 379; act of March 3, 1865, c. 79, 13 Stat. 487. In *United States v. Scott*, 3 Wall. 642, and *United States v. Murphy*, 3 Wall. 649, this court, in answering questions certified, construed the act of 1863, and the

amendatory act of 1864, no question of constitutionality being raised.

The validity of the draft acts of the Confederate States during the Civil War was vigorously attacked in the Confederate courts. The pertinent clauses of the constitution of the Confederate States were in precisely the same terms as the similar clauses in the Constitution of the United States. The statutes were sustained as a means of carrying into effect the power "to raise and support armies." *Burroughs v. Peyton*, 16 Gratt. 470; *Ex parte Coupland*, 26 Tex. 386; *Jeffers v. Fair*, 33 Ga. 347; *Barber v. Irwin*, 34 Ga. 27; *Gatlin v. Walton*, 60 N. C. 333, 408; *Ex parte Hill*, 38 Ala. 429; *Ex parte Stringer*, 38 Ala. 457; *Parker v. Kaughman*, 34 Ga. 136; *Daly & Fitzgerald v. Harris*, 33 Ga. Supp. 38, 54; *Simmons v. Miller*, 40 Miss. 19; *Ex parte Bolling*, 39 Ala. 609; *In re Emerson*, 39 Ala. 437; *In re Pille*, 39 Ala. 459.

Compulsory militia service has also been enforced by the courts. In *Houston v. Moore*, 5 Wheat. 1, and *Martin v. Mott*, 12 Wheat. 19, court-martial sentences were sustained against militiamen who failed to respond to the Federal call during the War of 1812. The act of Congress of July 17, 1862, c. 201, 12 Stat. 597, requiring performance of militia duty, was sustained in *McCall's Case*, 15 Fed. Cas. No. 8669, p. 1225; *In re Griner*, 16 Wis. 423; *Druecker v. Salamon*, 21 Wis. 621; *In re Spangler*, 11 Mich. 298; *Allen v. Colby*, 47 N. H. 544. As to the power of the State to draft see also *Lanahan v. Birge*, 30 Conn. 438, 443; *People ex rel. German Ins.*

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Co. v. Williams, 145 Ill. 573, 583; *In re Dassler*, 35 Kans. 678, 684; *State v. Wheeler*, 141 N. Car. 773, 777.

The present Selective Draft Act has been sustained in every case which has come before the courts. Cases in the Federal courts in addition to those now on hearing are *United States v. Sugar* (D. C.), 243 Fed. 423; *Angelus v. Sullivan* (C. C. A. 2d C.; not reported); *United States v. Stephens* (D. C. Del.; not reported); *Ex parte Hackenberg* (D. C. Nor. Ohio; not reported). *United States v. Yanyar* (D. C. R. I.; not reported); *United States v. Cattell & Phillips* (D. C. S. D. N. Y.; not reported). See also *Claudius v. Davie*, 174 Cal. —, 165 Pac. 689.

(g) There is not, as asserted, any common-law right of a soldier not to be sent out of the country.

The fifth assignment of error in the *Jones* case, No. 738, complains of error "in holding that appellant, contrary to his common-law rights as a citizen of the United States, was and is liable to compulsory military service beyond the seas and without the realm of the United States" (brief, p. 6).

Counsel in the *Minnesota* cases, Nos. 663-666, discuss the military obligations of Englishmen (brief, p. 8 *et seq.*). So far as the asserted rights of State militiamen are concerned, discussion is postponed (*infra*, p. 46 *et seq.*).

The status of a citizen properly drafted into the land forces of the United States is that of a soldier no less than the status of one who has voluntarily enlisted. Both must obey the commands of their

superiors. The willingness with which one has become a soldier affords no ground for distinction. Every citizen impliedly consents to become a soldier in case of need. The soldier who, having become such involuntarily, disobeys an order to go to the place where the enemy is to be met is no less a deserter than a volunteer who does the same.

Again, the testimony of history is conclusive. Our armies have served in all parts of the world. The flag has waved over the national forces at Tripoli (Treaty of Peace with Tripoli, 1805, Art. III, 2 Malloy's Treaties, p. 1789; and at Tampico (*Fleming v. Page*, 9 How. 603); in Mexico, in China, and in Canada. Our legions have been victorious on the soil of Cuba, Porto Rico and the Philippines, in the Caribbean and across the Pacific.

Such foreign service has never been regarded as illegal. Indeed this court has spoken to the contrary in *Fleming v. Page*, 9 How. 603, involving a question as to duties on goods imported from Tampico, Mexico, while that city was occupied by our troops. Mr. Chief Justice Taney said (p. 615):

As commander-in-chief, he [the President] is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy. He may invade the hostile country, and subject it to the sovereignty and authority of the United States. * * * The power of the President under which Tampico and the State of

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Tamaulipas were conquered and held in. jection was simply that of a military mander prosecuting a war waged against public enemy by the authority of his government.

In the Treaty of Alliance of 1778 with France force when the Constitution was adopted, the of the United States to France was pledged if should break out between France and Great Britain (Art. I); conquest of Canada and the Islands of Bermudas by the United States was contemplated (Art. V). 1 Malloy's Treaties, pp. 479-481.

Prior to the adoption of the Constitution in 1787 the militia statutes passed by the Original States frequently provided that the militia forces might be sent into neighboring States. See the following Maryland, acts of 1778, October, c. 10; Connecticut, Laws 1784, p. 147; Rhode Island, act of December, 1777, pp. 10, 11; New York, April 3, 1778, c. 33; Laws 1777-1784, vol. 1, p. 68; act October 9, 1779, c. 18; Laws, *supra*, p. 159; act of April 4, 1782, 5th sess., c. 27; Laws, *supra*, p. 444, sec. 17; p. 446, sec. 20; Massachusetts Resolves, June, 12, c. 51, 1778, p. 18; Massachusetts Laws, May, 1776, c. 21, p. 89; Laws and Resolves, 1780-1, p. 680, c. 99; Resolve, June 28, 1781; New Hampshire, act March 18, 1780, c. 12, Metcalf's ed., vol. 4, p. 273; North Carolina, November, 1777, c. 19, vol. 24, State Records 128, 1778, 3d sess., c. 1, *id.*, p. 198, May, 1779, c. 1, vol. 24, State Records 254; New Jersey, act September 27, 1777, c. 44, sec. 5, Laws September, 1777, p. 99;

South Carolina, act February 13, 1779, No. 1116, 4 St. L. 465; act February 26, 1782, No. 1154, 9 St. L. p. 682; Pennsylvania, act March 20, 1780, c. 152, 10 St. L., 144, 156. If the contention of counsel be correct, such statutes of the still independent and nonunited States invaded the common-law rights which their citizens had enjoyed as colonists.

Counsel in the *Jones* case, No. 738, speak of "natural rights" (brief, p. 9). There is no natural right to disobey a valid legislative enactment. The notion, moreover, that compulsory military service is contrary to the spirit of democratic institutions (brief, No. 663, pp. 11, 12) is unfounded in fact. Our Constitution implies equitable distribution of the burdens no less than of the privileges of citizenship.

In a matter so fully covered by American precedent there is little need to invoke the history of England. But if it be material, it is easy to show that English history itself does not support, as counsel seem to think, the alleged right to be free from conscription for foreign service. The recent acts in England and Canada, *supra*, p. 16, indicate the parliamentary view that the voluntary recruiting system was followed for many years only as a matter of policy. See May's Constitutional History of England, vol. 2, p. 136-138; vol. 3, pp. 280-283.

The military obligation of Englishmen in the days prior to the Revolutionary War is uncertain in extent. The militia existed prior to the Norman Conquest. Blackst. Comm., vol. 1, *p. 409. Thereafter

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the militia obligation was not forgotten (see *Arms A. D. 1181*; Stubbs, *Select Charters*, p. 153; Adams and Stephens, *Documents of Constitutional History*, p. 23; Stubbs, *Constitutional History*, Clarendon Press, 2d ed., vol. 1, p. 591; Statute of Winchester A.D. 1285, 13 Edward I, c. 6, 1 Stat. L. 234; also the feudal obligation of knight service enforced (Blackst. Comm., vol. 1, *p. 410); as was the subject's obligation of allegiance. The feudal obligation apparently was not merged in the obligation to bear arms. Pollock and Maitland "History of English Law," vol. 1, p. 234.

Various phases of the military obligation gave rise to struggle between the Crown and the representatives of the people. The contest of the Crown for the right to keep a standing army in time of peace without the consent of Parliament was settled by the Bill of Rights of 1688. 1 William and Mary, sess. 2, c. 1, sec. 1; 9 Stat. L. 67. Anciently there can be no doubt that the king exercised the prerogative of impressment—that is, an arbitrary selection of individual free men, to serve in the army. Barrington, *Observations on Ancient Statutes*, p. 334; Stubbs, *Constitutional History of England*, vol. 2, pp. 284, 540. Falstaff, apologizing for the cadaverous individuals whom he had gathered under his commission of array, said: "I have misused the king's press damnably." King Henry IV, part 1, act 4, scene 2.

The barons at one time disputed the right of the Crown to compel foreign service under the feudal ob-

igation; but as to the extent of the obligation of knight service, Pollock and Maitland say: "It is a question, we may say, which never receives any legal answer." 1 *History of English Law*, 232. When the knights did not furnish a sufficient force Stubbs states "recourse was had to the native population. Every free man was sworn under the injunction of the Conqueror to join in the defense of the king, his lands and his honour, within England and without." 1 Stubbs, *Constitutional History of England*, Clarendon Press, 2d ed., p. 33; under Henry III (2 Stubbs, *supra*, p. 280).

Commissions of array were developed under Edward I.

In 1282, on the 30th of July, he commissioned William le Butiller of Warrington to 'elect,' that is, to press or pick a thousand men in Lancashire. (Stubbs, vol. 2, p. 284.)

Edward II threw the expense of additional armies on the townships and counties.

Edward I moreover had always paid the wages of his forced levies; under Edward II the counties and even the townships were called upon to pay them; they were required to provide arms not prescribed by the statute of Winchester, to pay the wages of the men outside of their own area, and even outside of the kingdom itself. (Stubbs, vol. 2, p. 540.)

A petition was presented to Edward III "that the 'gentz de commune' might not be distrained to arm themselves at their own cost contrary to the statute of Winchester, or to serve beyond the limits of their

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counties except at the king's cost." 2 Stat. R. 542. The statutes which resulted from the tions are gathered in an appendix (Appendix "A").

But though the statutes come to prohibit the impressment of soldiers without "the common consent of Parliament," and provide at the same time that subjects of the realm shall not be compelled to march out of the kingdom other than by the laws of England ought to be done, Car II, c. 6, 5 Stat. R. 308; 13 and 14 Car II, c. 3, 5 Stat. R. 358 (1662), nothing has been found which limits the power of Parliament to compel foreign military service. The obligation of every "lovinge and obedient subject" "accordinge to their bounden dutie to serve and assist his prince and sovereign "with this Realme and without this Realme" was expressly recognized in 1494 by act 11 Henry VII, c. 18, 4 Stat. L. England, p. 66; and in 1503, 19 Henry VII, 4 Stat. L. England, p. 82; 3 Henry VIII, c. 5, 4 Stat. L. England 111 (A. D. 1511, 1512); 2 and 3 Edward VI, c. 2, A. D. 1548, 4 Stat. Realm 39; see 4 and 5 Philip and Mary, c. 3, 4 Stat. R. 320 (1557). In 1592 Parliament levied a tax on the parishes for the Relief of Souldiers, 35 Eliz. c. IV, 4 Stat. Realm, pt. 2, p. 847. The act provided "That everie Souldier or Marriner * * * or such as shall hereafter return into this Realm hurte or maymed or grevouslie sicke, shall repaire * * * to the Treasurers of the Countie out of which he was pressed, or if he be no prest man. * * *" Parliament itself provided for impressment of vagrants to serve in the army

1703, 2 and 3 Anne, c. 13, 8 Stat. R. 275; 4 Anne, c. 10, 8 Stat. R. 356 (1704); 4 and 5 Anne, c. 21, 8 Stat. R. 503 (1705); 7 Anne, c. 2, 9 Stat. R. 40 (1708); 29 George II, c. 4, 21 Stat. L. 318 (1756); 30 George II, c. 8, 22 Stat. L. 10 (1757); 18 George III, c. 53, 32 Stat. L. 117 (1778); 19 George III, c. 10, 32 Stat. L. 183 (1779). These latter statutes it is true applied only to a certain class of citizens. But if Parliament had power to draft one class, an increased military necessity would warrant the impressment of others. In 1640 Parliament enacted that the Justices of the Peace should "impresse * * * persons as shall be fit and necessary," 16 Car I, c. 28, 5 Stat. Realm 138, Appendix "E," *infra*, p. 138.

Blackstone mentions among the rights of Englishmen the right not to be banished, making it clear, however, that military service in foreign parts is not within the term (vol. 1. pp. *137, 138). He said:

The law is in this respect so benignly and liberally construed for the benefit of the subject that though *within* the realm the King may command the attendance and service of all his liegemen, yet he cannot send any man *out of* the realm even upon the public service; excepting sailors and soldiers, the nature of whose employment necessarily implies an exception. He cannot even constitute a man lord deputy or lieutenant of Ireland against his will, nor make him a foreign ambassador. For this might in reality be no more than an honorable exile.

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The power to impress seamen to serve in the United States was thoroughly established. See *King v. [illegible]*, 5 East 477 (1804); *Ex parte Fox*, 5 Term 276; *Barrows Case*, 14 East 346; *King v. [illegible]*, 5 East 466; *Reg. v. Broadfoot*, *Foster's Crown* (1809), p. 154. Barrington's *Observations on Ancient Statutes*, p. 334. In *Rex v. Tubbs*, 2 Co. 517 (1776), Lord Mansfield said that this power was based upon immemorial custom. See Cooley *Constitutional Limitations*, 6th ed., p. 363.

II.

THE SELECTIVE DRAFT LAW INFRINGES NO PROVISION OF THE CONSTITUTION CONCERNING THE MILITIA

The militia is mentioned in five provisions of the Constitution, as follows:

Art. I, sec. 8. The Congress shall have the power * * *

(Cl.) 15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

(Cl.) 16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

Art. II, sec. 2. 1. The President shall be Commander in chief of the Army and Navy

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the United States, and of the militia of the several States, when called into the actual service of the United States * * *.

Amendment II. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Amendment V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger

* * *

Plaintiffs in error submit various and contradictory contentions based on the clauses quoted. Summarized, the argument runs as follows: Plaintiffs in error, although not in the organized, are members of the unorganized militia, therefore they may be called only as militiamen and for militia duty. Constitution, Art. I, sec. 8, cl. 15. If militiamen of the States may be placed in the National Army, rights reserved to the States to maintain the militia, appoint the officers, and train the local forces in accordance with the discipline prescribed by Congress, are infringed Amendment X: Art. I, sec. 8, cl. 16; briefs in Nos. 663-666, pp. 16, 18; brief in No. 656, pp. 30, 32; R. No. 680, p. 271; brief in No. 681, pp. 7, 35; brief No. 702, p. 78.

Furthermore, they may be called as militiamen only for three purposes: To execute the laws of the United States, to suppress insurrections, and to repel inva-

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sions. Specifically, they can not be sent out of the country. The Selective Draft Law calls the militia for purposes unauthorized by the Constitution. Briefs in Nos. 663-666, pp. 18, 19.

1. A citizen is not exempt from military service in the National Army merely because he is also a militiaman.

(a) The power granted to Congress over the militia of the States, Constitution, Art. I, sec. 8, cl. 15, 16, is not in limitation but in extension of the power to raise an army, cl. 12.

The clauses of Article I, section 8, of the Constitution constitute a charter of the powers conferred upon the National legislature. Each grant is distinct from and additional to the others. Congress may raise an army. It may also provide for calling forth the militia. There can be no ambiguity here.

The two powers are not inconsistent with each other, but are complementary. The army is a national organization whose business is war. The militia is a State institution, *infra*, p. 46, composed of the able-bodied citizenry, who devote practically their entire time to ordinary civilian pursuits. The Army is for use in a national crisis, trained and disciplined for service against hostile power until the war is concluded. The militia is an enlarged *posse comitatus*, primarily for use in time of local disturbance, and for a period of only a few months. Upon the State devolves the duty to maintain and train the militia. The State is expressly prohibited from establishing an army. Constitution, Art. I, sec. 10.

The complementary character of the two distinct powers is seen from the reasons for investing Congress with them. It was desired not to limit the power of the National Government over the army, but to make its existence subject to the control of the representatives of the people by restricting appropriations for only two years' use and to limit the occasions requiring the maintenance of an army in time of peace. Opposition from the descendants of Englishmen who had not forgotten the armies maintained by the Stuart kings in time of peace greeted the proposal to vest the National Government with power over "the bulwark of the citizen's liberties." 3 Elliot's Debates, 384; Farrand's Records of the Federal Convention, vol. 3, pp. 207, 209. The answer was obvious that the Constitution did not provide for uncontrolled power of the Executive, and that there was no more ground to fear abuse of the power by representatives of the people in national assembly than in the local legislatures. Federalist, No. 25, p. 164. Given the power to call the militia of the States for local disturbances, the necessity for the maintenance by the National Government of a large standing army in time of peace is obviated. Supp. to Elliot's Debates, 466, 467. Given also the power to maintain armies, the National Government is not always under the necessity of calling upon citizens to leave their customary occupations, involving loss of time and labor and the expense incident to frequent rotation of militia service. Again, it was clear that untrained militia forces, though courageous, may in emergency not be sufficient

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to cope with hostile disciplined troops. Federalist Nos. 24, 25; Upton, "Military Policy of the United States," pp. 13, 15, 45, 101; see *McClughry v. Deming*, 186 U. S. 49, 57.

The history of the times (*supra*, p. 24) reinforces the plain language of the Constitution that the insertion in that instrument of power to use the militia was not intended to abrogate the power to raise armies. The proportion of each organization and the means for raising both are for Congress to determine. See Federalist Nos. 22 to 29; *Burroughs v. Peyton*, 16 Gratt. 470, 482.

(b) The draft of a citizen into the armed forces of the United States infringes no reserved right of the States over the militia.

It is contended that the militia is an institution of the States; that if the Federal Government may make wholesale draft upon militiamen the State institution may be wiped out.

There is no doubt that the militia recognized in the Constitution is a State institution. This is shown not only by the reserved authority over it when not employed in the service of the United States (Art. I, sec. 8, cl. 16), but by the express language in Article II, section 2, clause 1, as follows:

The President shall be Commander in chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States.

Prior to the adoption of the Constitution each of the States maintained its own militia. The States

have legislated concerning the militia establishment and organization since the beginning of the Government. It is thoroughly settled that such regulations, in the absence of congressional regulation to the contrary, are valid. *Presser v. Illinois*, 116 U. S. 252; *People ex rel. v. Hill*, 126 N. Y. 497, 503, 504; *Lanahan v. Birge*, 30 Conn. 438; *Dunne v. People*, 94 Ill. 120. In *Houston v. Moore*, 5 Wheat. 1, a conviction under a Pennsylvania statute of a militiaman who failed to respond at the point of rendezvous upon call into the service of the United States was held valid. Until he reported at the rendezvous the militiaman was regarded as in the control of the State (see pp. 21, 51). When the militia of the States is called out the militiamen as individuals are not directly addressed, but the call may be directed to the governor of the State or subordinate commanding officers of the militia (5 Wheat. 15; see act May 27, 1908, c. 204, 35 Stat. 399).

The argument from State sovereignty, however, goes too far. If its validity is admitted the grant of power to Congress "to raise armies" is practically nullified. It may be that an effective army can not be raised by voluntary enlistment. Power to make war and raise armies is a power to command, not to contract. If dependent on consent of individuals it is no power at all.

If the National Government can not draft citizens of the United States, who are also citizens and militiamen of the States, by the same token it is denied the power to accept volunteers who are State militia-

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men. For if the entire State militia may be drafted, so also may the entire State militia voluntarily enlist. A private citizen can not, of course, grant away the sovereignty of the State. It may be said that the entire State militia would not voluntarily enlist. But if drafting part of the State militia is to be held invalid because later the whole may be drafted, by parity of reasoning voluntary enlistment of part is unconstitutional. *Ex parte Coupland*, 26 Tex. 386, 396; *Burroughs v. Peyton*, 16 Gratt. 470, 482. The ranks of the National Army must then be reduced to boys under 18, men over 45, and foreigners.

In the cases in the courts of the Confederate States during the Civil War which sustained the power of the Confederate Congress to conscript citizens of the Southern States, the point was insisted upon by members of the States' militia that the States' rights were being infringed. The contention was in each case denied. *Ex parte Coupland*, 26 Tex. 386, 396, 402; *Burroughs v. Peyton*, 16 Gratt. 470, 475, 483, 484, 485; *Jeffers v. Fair*, 33 Ga. 347, 351, 353; *Ex parte Tate*, 39 Ala. 254, 268; *Barber v. Irwin*, 34 Ga. 27, 37.

In *Simmons v. Miller*, 40 Miss. 19, 26, it was pointed out that if the national power over the citizens is subservient to the State's rights over militia, then the National Government is in the helpless condition of the Confederation, which it was one of the prime objects of the Constitution of the United States of 1787 to avoid.

In *Jeffers v. Fair*, 33 Ga. 347, the court, in disposing of the contention that to allow the National

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Government to draft the militia interferes with the right of the States to appoint officers thereof, said (p. 353):

The simple and obvious reply is that the status of the citizen is not merged in the militiaman; that the fact of enrolment with the militia does not exempt him from other duties and liabilities of citizenship.

In *Ex parte Bolling*, 39 Alabama 609, the Supreme Court of Alabama disposed of the contention as follows (p. 610):

We have heretofore held, that the conscript laws are constitutional, (*Ex parte Hill*, 38 Ala. 428,) and we have also ruled, that when the lawful call of each government, Confederate and State, to perform military service, falls on the same person, the claim and call of the Confederate States must prevail over the claim and call of the State government, on the ground that the constitution of the Confederate States, and the laws made in pursuance thereof, are the supreme law of the land.

The same view of the contention was taken by the Supreme Court of Pennsylvania in a case arising under the Conscription Law of Congress of 1863, in *Kneedler v. Lane*, *supra*, 45 Pa. St. 238, 282, 322.

If there be conflict, therefore, between the State's rights over the militia and the national power to raise an army, the national power must prevail.

But there is no conflict in fact. Throughout our history the National Government has not impaired the right of the State to keep up its own militia.

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Under the present Selective Draft Law only an inconsiderable portion of the militia of the States as a whole are drawn into the National forces. The citizens of the States are withdrawn from possible call for State militia service only temporarily, during the period of the existing emergency. Act of June 15, 1917, Pub. No. 23, 65th Cong., sec. 4, p. 41. The purpose of their withdrawal is in defense of all of the States.

The right of the States to organize and train the militia remaining has been recognized and safeguarded by the National Government. Act of June 14, 1917, Pub. No. 22, 65th Cong.; National Defense Act of June 3, 1916, 39 stat. 166, 198, sec. 61. The act of June 14, 1917, entitled "An act to authorize the issue to States and Territories and the District of Columbia of rifles and other property for the equipment of organizations of home guards," authorizes the Secretary of War during the existence of the emergency to issue to the several States

for the equipment of such home guards of the character of State police or constabulary as may be organized by the several States and Territories and District of Columbia, and such other home guards as may be organized under the direction of the governors of the several States and Territories and the Commissioners of the District of Columbia or other State troops or militia * * * rifles [and other equipment as] shall be receipted for by the governors of the States and Territories * * * *Provided*, That all home

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guards, State troops and militia receiving arms and equipments, as herein provided, shall have the use, in the discretion of the Secretary of War, and under such regulations as he may prescribe, of rifle ranges owned or controlled by the United States of America.

The home guards or militia here referred to are of the character of local organizations mentioned in section 61 of the National Defense Act of June 3, 1916, which provides:

That nothing contained in this Act shall be construed as limiting the rights of the States and Territories in the use of the National Guard within their respective borders in time of peace: *Provided further*, That nothing contained in this Act shall prevent the organization and maintenance of State police or constabulary.

Far from attempting to interfere with the right of the States to organize, train, and call citizens for local militia service, these acts expressly provide for aiding the States therein by lending rifles and other equipment.

Already statutes have been passed in many States providing for calling out members of the unorganized militia for State service when the members of the National Guard are in the forces of the United States.¹

¹ Georgia, Laws 1916, pp. 158, 160, 161, secs. 2, 9, 10, 11. Illinois, Laws 1917, act June 25, 1917, secs. 1, 2, pp. 782, 783.

Louisiana, Laws 1915-16, No. 264, secs. 5, 9, 70, pp. 540, 542, 548.

Maine, R. S. 1916, c. 15, secs. 9, 10, pp. 296, 298, 299.

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2. Constitutional restrictions concerning militia service are not material in these cases because the duty enforced by the Draft Law is not that of militiamen but of citizens.

(a) Plaintiffs in error were drafted not as militiamen but as citizens of the United States.

The Selective Draft Law is entitled "An act to authorize the President to increase temporarily the Military Establishment of the United States." It provides in section 1 for, first, increasing the increments of the Regular Army; second, for drafting those persons then serving as members of the National Guard; and, third, for drafting an additional force of 500,000 enlisted men. The Regular Army is being recruited by voluntary enlistment. Plaintiffs in error do not claim to be members of the National Guard. Hence their objection must be to the third method of increasing the Military Establishment—the draft. The draft is not based upon the liability to perform militia duty. On the contrary, section 2 provides:

Such draft as herein provided shall be based upon liability to military service of all

Maryland, Laws 1917, act June 17, 1917, ex. sess., c. 26, sec. 91, p. 62.

New Hampshire, Pub. Acts and J. Res. 1917, c. 123, sec. 4, p. 52; c. 144, p. 64; c. 197, p. 98.

New York, Laws 1916, vol. 3, c. 568, p. 1862, sec. 9.

North Carolina, Pub. Laws 1917, c. 200, secs. 10, 47, pp. 352, 353,, 360-361.

Oregon, Gen. Laws 1917, c. 327, secs. 3, 4, 11, 13, pp. 655, 657.

Washington, Laws 1917, c. 107, sec. 1, 9, pp. 361, 364, 365.

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male citizens, or male persons not alien enemies who have declared their intention to become citizens, between the ages of twenty-one and thirty years, both inclusive.

While the act calls for men only between the ages of 21 and 31, the militia of the various States comprises men between the ages of 18 and 45. National Defense Act of June 3, 1916, c. 134, 39 Stat. 166, 197, sec. 57. There are certain well-known methods of calling out the State militia into the service of the United States. In the statutes under which Congress has in the past made provision for calling the militia the words are addressed expressly to the militia.¹

Counsel in cases Nos. 680, 681, 709, admit "that the law does not call the militia" (R. No. 681, p. 35; No. 680, p. 271). In the *Kramer* case counsel

¹ Congressional statutes authorizing the President to call out the militia of the States:

Act Sept. 29, 1789, c. 25, 1 Stat. 95, 96.

Act Apr. 30, 1790, c. 10, 1 Stat. 119, 121, sec. 16.

Act May 2, 1792, c. 28, 1 Stat. 264.

Act May 9, 1794, c. 27, 1 Stat. 367.

Act Nov. 29, 1794, c. 1, 1 Stat. 403.

Act Feb. 28, 1795, c. 36, 1 Stat. 424.

Act June 24, 1797, c. 4, 1 Stat. 522.

Act Mar. 3, 1803, c. 32, 2 Stat. 241.

Act Apr. 18, 1806, c. 32, 2 Stat. 383.

Act Mar. 30, 1808, c. 39, 2 Stat. 478, 479.

Act Apr. 10, 1812, c. 55, 2 Stat. 705, 706.

Act May 13, 1846, c. 16, 9 Stat. 9.

Act July 29, 1861, c. 25, 12 Stat. 281.

Act July 17, 1862, c. 201, 12 Stat. 597, sec. 1.

Act Jan. 21, 1903, c. 196, 32 Stat. 775, 776, sec. 4.

Act May 27, 1908, c. 204, 35 Stat. 399, 400, sec. 3.

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stated in the court below "that the conscription law calls, therefore, for the men of the State into the service of the United States, but it does not call on the Governor to provide militia" (R. No. 689, p. 10).

It is argued that since section 57 of the National Defense Act of 1916 designates all able-bodied male citizens between the ages of 18 and 45 as militiamen the Selective Draft Law is a call upon militiamen for militia service. The section referred to provides:

The militia of the United States shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than eighteen years of age and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the National Guard, the Naval Militia, and the Unorganized Militia.

In thus treating of the men liable to call for militia service Congress clearly did not intend to relinquish its power to call citizens for service in the National Army. As section 57 states, men between 18 and 45 are liable to militia duty. The Selective Draft Law provides that men between 21 and 30 are subject to military service in the National Army. Section 57 of the act of 1916 throws no light on the subsequent statute.

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(b) Members of the National Guard are called not as militiamen but as citizens of the United States.

It may be urged that although the increase in the Regular Army recruits and the additional force of 500,000 drafted men provided by the Selective Draft Law are not called as militia, the National Guard was the Organized Militia of the States and was called out as such. This also is incorrect.

Section 1 of the act provides:

That in view of the existing emergency, which demands the raising of troops in addition to those now available, the President be, and he is hereby, authorized—

* * * * *

Second. To draft into the military service of the United States, organize, and officer, in accordance with the provisions of section one hundred and eleven of said national defense Act, so far as the provisions of said section may be applicable and not inconsistent with the terms of this Act, any or all members of the National Guard and of the National Guard Reserves, and said members so drafted into the military service of the United States shall serve therein for the period of the existing emergency unless sooner discharged: *Provided*, That when so drafted the organizations or units of the National Guard shall, so far as practicable, retain the State designations of their respective organizations.

The authority is not to call into service militia organizations. It is to call any of the members of the militia. Authority extends to drafting any or all of

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such members. "Said members so drafted * * shall serve." Again, the members drafted are to be organized and officered. National Guard organizations are already organized and officered. Furthermore, the draft is specified to be in accordance with section 111 of the National Defense Act of 1916, which provides that "persons so drafted, shall from the date of their draft, stand discharged from the militia." This section reads as follows:

When Congress shall have authorized the use of the armed land forces of the United States, for any purpose requiring the use of troops in excess of those of the Regular Army, the President may, * * * draft into the military service of the United States, to serve therein for the period of the war unless sooner discharged, any or all members of the National Guard and of the National Guard Reserve. All persons so drafted shall, from the date of their draft, stand discharged from the militia, and shall from said date be subject to such laws and regulations for the government of the Army of the United States as may be applicable to members of the Volunteer Army, and shall be embodied in organizations corresponding as far as practicable to those of the Regular Army or shall be otherwise assigned as the President may direct.

Section 101 of the National Defense Act of 1916, 39 Stat. 208, on the other hand, makes express provision for calling the National Guard as State militia. This section provides:

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The National Guard when called *as such* into the service of the United States shall, from the time they are required by the terms of the call to respond thereto, be subject to the laws and regulations governing the Regular Army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law. (*Italics ours.*)

It is true that section 1, paragraph 2, of the Selective Draft Law, *supra*, contains a proviso which refers to organizations or units of the National Guard. The proviso, however, does not change the effect of the purview of the paragraph. The clause "when so drafted" refers to the preceding words "any or all members." It does not qualify the subsequent words "organizations or units of the National Guard." The law provides that when any or all members of the National Guard are drafted they shall be embodied into organizations, and any force of training cadres may be transferred to any other force (sec. 2). Section 2 further provides:

Organizations of the forces herein provided for, except the Regular Army and the divisions authorized in the seventh paragraph of section one, shall, as far as the interests of the service permit, be composed of men who come, and of officers who are appointed from, the same State or locality.

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The same injunction is contained in section 7:

Provided, That all persons enlisted or drafted under any of the provisions of this Act shall so far as practicable be grouped into units by States and political subdivisions of the same.

The three provisos are *in pari materia*. Members of the National Guard may be drafted. When detached they are to be embodied into organizations of men from the same locality, being grouped together. The organization so made up according to section 1, paragraph 2, now under consideration, shall, "so far as practicable, retain the State designations of their respective organizations." This proviso patently deals with nomenclature. The organizations spoken of are not the old organizations of the National Guard but the new units embodying any or all National Guard members and others transferred. The qualifying clause "so far as practicable" indicates that this is the proper construction of the proviso.

In *United States v. Sugar*, 243 Fed. 423, the district court in disposing of a similar contention said (p. 439):

If the federal government has, as there can be no doubt that it has, the power to draft into the military service of the United States any of its citizens, surely it has power to draft such citizens, notwithstanding the fact that they may previously have been members of the National Guard. Otherwise, it would be in the power of any state or of its citizens to easily evade or nullify any attempt of the

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federal government to exercise this power and such power might be wholly nugatory.

As to the power to select from the body of the citizenship those who are members of the National Guard, there can be little doubt. Such a selection is not arbitrary. Having been trained to military service, it is both reasonable and prudent to choose them among the first in increasing the Military Establishment. In an able article in 30 Harv. Law Rev., 712, Maj. S. T. Ansell (now Brigadier General and Acting Judge Advocate General) states (p. 715):

Throughout our history the States have recognized the feasibility of parting with their organized militia when a national crisis has demanded it. In the Civil War the States parted first with their active militia in raising their quotas for the Federal Army, and the State organizations with their members became, when mustered into the service, United States Volunteers. The same thing prevailed in the Confederacy during that period. In the War with Spain the Volunteer Army was raised in the same manner. Of course, in contemplation of law the militia has been taken not as militia, nor as militia organizations, but as individuals owing the Nation allegiance and service. Such a long-continued course of governmental conduct is not without significance.

The article concludes with the following adequate language (p. 723):

A militiaman, organized or unorganized, is a citizen. Concededly an unorganized, or re-

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serve, militiaman is subject to draft; otherwise, since all arms-bearing citizens are such militia, whence shall our armies come? An organized militiaman is no less a citizen and is much better prepared, largely at Federal expense, to make an effectual contribution to the country's cause in time of war.

Of course, in a strict sense, none of the present plaintiffs in error is entitled to raise these objections. No one of them is affected by the constitutional point presented. None of the plaintiffs in error is a National Guardsman. Persons drafted in the army of 500,000 are not entitled to present the rights of National Guardsmen.¹ Even in the conspiracy cases, Nos. 680, 681, 702, the point is improperly raised, because the conspiracy charged was to violate those provisions of the draft law dealing with enrollment. The provision as to National Guard is separable. See *Willcox v. Consolidated Gas Co.*, 212 U. S. 19.

3. Assuming arguendo that plaintiffs in error are called as militiamen and are ordered abroad, they can not obtain relief in the courts.

We assume for the purpose of argument, wholly contrary to the facts, that the national authorities

¹ In case the question were properly raised by a National Guardsman, the further consideration may be presented that under the terms of his oath, secs. 70, 71, by which he agrees to obey the orders of the President, to serve under conditions prescribed by law, and to defend the United States against all enemies whomsoever, he has expressly waived his alleged right as militiaman to remain in the country.

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have called out the Organized Militia of the States and that plaintiffs in error as members thereof have been ordered to respond. They assert that there is no need for a militia force to execute the laws of the Union, suppress insurrection or repel invasion, and that they can neither be sent abroad nor ordered out at all.

It has long been settled, however, under our scheme of constitutional government and the statutes, that the power resides in only one person to decide when the emergency arises which justifies the calling out of the militia; that person is the Commander-in-Chief, the President of the United States. *Martin v. Mott*, 12 Wheat. 19, 31, 32; *Luther v. Borden*, 7 How. 1, 44. It is not even for the governor of the State, much less a private militiaman, to say that the President has wrongly decided. We recognize the constitutional limits on the power of the President to call out the militia. Attorney General Wickersham advised President Taft in an opinion rendered February 17, 1912, that the militia can not be used as part of the Regular Army in a foreign land in time of peace. 29 Op. Atty. Gen. 322. The legal adviser of the Commander-in-Chief, however, was called upon to consider a different question from that which is presented to the court in these cases. The President, of course, should be scrupulously careful not to exceed the bounds of his constitutional authority. But the matter is solely within his discretion, and from a decision made in exercise thereof no appeal lies to the courts. Correc-

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tion for possible abuse is in the power of impeachment and frequent elections.

On the facts in the present cases, moreover, it certainly could not be said that the Commander-in-Chief has exercised his discretion unwisely. A mass of evidence may have persuaded him that the German military authorities had well-matured plans to conquer the armies of our present Allies and then invade our shores in order to compel us to pay the expenses of their adventure of aggrandizement. Evidence to this effect is now not altogether lacking to the public.¹

In Mr. Wickersham's opinion of February 17, 1912, *supra*, it was said (p. 324):

¹ This seems to have been the opinion of Ambassador Gerard. 55 Cong. Rec., p. 1162.

Admiral Von Goetz, of the German Navy, is reported by Admiral Dewey to have stated during the Spanish-American War as follows:

"About 15 years from now my country will start her great war. She will be in Paris about two months after the commencement of hostilities. Her move on Paris will be but a step to her real object—the crushing of England. * * * Some months after we finish our work in Europe we will take New York, and probably Washington, and hold them for some time. We will put your country in its place, with reference to Germany. We do not propose to take any of your territory (?), but we do intend to take a billion or so of your dollars from New York and other places. The Monroe doctrine will be taken charge of by us, as we will then have to put you in your place, and we will take charge of South America, as far as we wish to. * * * Don't forget this, and about 15 years from now remember it, and it will interest you." (Naval and Military Record, No. 33, Vol. LII, p. 578; see 55 Cong. Rec., 8178.)

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The term "to repel invasion" may be, in some respects, more elastic in its meaning. Thus, if the militia were called into the service of the General Government to repel an invasion, it would not be necessary to discontinue their use at the boundary line, but they might (within certain limits, at least) pursue and capture the invading force, even beyond that line, and just as the Regular Army might be used for that purpose.

The power to repel invasion includes the power to do so effectively. *Martin v. Mott*, 12 Wheat. 19, 29. If, in the easily admitted case, the militia may be sent a few miles beyond the boundary lines of the territory of the United States under this power, it may be sent a few thousand miles as the necessary and effective means of repelling a threatened invasion.

III.

THE SELECTIVE DRAFT LAW IMPOSES NEITHER SLAVERY NOR INVOLUNTARY SERVITUDE.

Soon after the law now in question was approved the Supreme Court of California held in *Claudius v. Davie*, 165 Pac. 689, that "the claim that the law imposed slavery or involuntary servitude is utterly without merit." This was in a memorandum opinion on an application for a writ of prohibition against a State officer to prevent enforcement of the law. All those courts which have since considered the question (*supra*, p. 34) have expressed the same justifiable impatience with the suggestion.

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If the citizen owes a duty to render military service the Thirteenth Amendment does not interfere with its enforcement. The amendment was the result, not as counsel in the *Arver* case, with some imagination, assert, of the opposition of the people to the draft, but of a desire to banish forever the well-known forms of chattel slavery and the involuntary servitude akin thereto. It was not intended to destroy those powers of government necessary to be exercised to secure citizens the blessings of liberty. The argument of counsel is that the Thirteenth Amendment, designed to make citizens free, should, by denying the power of effective opposition, be molded into an instrument to make them slaves of a foreign power.

No better language can be employed in explaining the relation of the amendment to exceptional duties owed to the State than that of this court in *Butler v. Perry*, 240 U. S. 328, holding that a State may compel labor upon the public roads. It was there said (pp. 332, 333):

Utilizing the language of the Ordinance of 1787, the Thirteenth Amendment declares that neither slavery nor involuntary servitude shall exist. This amendment was adopted with reference to conditions existing since the foundation of our Government, and the term involuntary servitude was intended to cover those forms of compulsory labor akin to African slavery which in practical operation would tend to produce like undesirable results. It introduced no novel doctrine with

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respect to services always treated as exceptional, and certainly was not intended to interdict enforcement of those duties which individuals owe to the State, such as services in the army, militia, on the jury, etc. The great purpose in view was liberty under the protection of effective government, not the destruction of the latter by depriving it of essential powers. *Slaughter House Cases*, 16 Wall. 36, 69, 71, 72; *Plessy v. Ferguson*, 163 U. S. 537, 542; *Robertson v. Baldwin*, 165 U. S. 275, 282; *Clyatt v. United States*, 197 U. S. 207; *Bailey v. Alabama*, 219 U. S. 219.

In *Robertson v. Baldwin*, 165 U. S. 275, the sections of the Revised Statutes providing that justices of the peace might arrest deserting seamen, compelling them in effect to labor in accordance with their shipping articles, were sustained against an attack that they violated the Thirteenth Amendment. This court said (p. 282):

It is clear, however, that the amendment was not intended to introduce any novel doctrine with respect to certain descriptions of service which have always been treated as exceptional; such as military and naval enlistments, or to disturb the right of parents and guardians to the custody of their minor children or wards.

In *Tucker v. Alexandroff*, 183 U. S. 424, in which the arrest of a deserting conscript in the Russian navy was held proper as in accordance with the Russian treaty of 1832, no question was raised that the Thirteenth Amendment was in any way violated.

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In *Clyatt v. United States*, 197 U. S. 207, when peonage was held contrary to the Thirteenth Amendment, this court said (p. 216):

We need not stop to consider any possible limits or exceptional cases, such as the service of a sailor, *Robertson v. Baldwin*, 165 U. S. 275, or the obligation of a child to its parents, or of an apprentice to his master, or the power of the legislature to make unlawful and punish criminally an abandonment by an employé of his post of labor in any extreme case.

The records abound with examples of compulsory public service. A public officer can not resign when he will. *Edwards v. United States*, 103 U. S. 471. One duly elected may be compelled to serve by mandamus. *People ex rel. German Insurance Co. v. Williams*, 145 Ill. 573. Failure in this regard is a criminal offense at common law. See cases cited in *People ex rel. v. Williams, supra*, p. 578. Employees in a public service business, by reason of the relation into which they have entered and the peculiar and overwhelming public interest in its continuance at certain times, may be required, for a reasonable period, to continue at their posts. *Wilson v. New*, 243 U. S. 332, 351. In the 15th century Englishmen were impressed to build a wall to keep out the sea. Barrington's *Observations on Ancient Statutes*, 396. South Carolina in 1778 required the inhabitants of the neighborhood to labor in clearing a river. *South Carolina Statutes at Large*, vol. 7, p. 524. From time immemorial citizens have been compelled

to serve on juries. *In re Appeal of Scranton*, 74 Ill. 161; *Bragg v. People*, 78 Ill. 328, 330. They may be required to join the *posse comitatus*; to go to the tax office. Children may be compelled to go to school. *State v. Bailey*, 157 Ind. 324. Witnesses may be forced to appear. United States Constitution, Sixth Amendment; *Israel v. State*, 8 Ind. 467. Attorneys must defend accused persons without compensation. *Vise v. County*, 19 Ill. 78; *Rowe v. Yuba County*, 17 Calif. 61. Reports involving labor, little and vast, may be required. Physicians in some States must report births. *Robinson v. Hamilton*, 60 Iowa 134; pawnbrokers make daily report of pledges. *Launder v. Chicago*, 111 Ill. 291. Railroads may be required to render monthly return of violations of 16-hour law; *Balto. & Ohio R. R. Co. v. Int. Com. Comm.*, 221 U. S. 612; and to make annual reports involving much detail and labor; *Kansas City Southern Ry. Co. v. United States*, 231 U. S. 423.

Counsel in the *Arver* case No. 663 (brief, 34) list eleven instances of peculiar service said not to be covered by the Thirteenth Amendment, and comment upon them. We do not attempt to cover the bounds of history, nor to enumerate all the exceptional cases sanctioned by immemorial usage, nor, being unable to forecast the extent of the public necessities in analogous cases in the future, do we try to embrace all instances of service which the citizen may be required to render his Government. The striking fact is that in many cases in which compulsory service has been regarded as exceptional, the analogy to

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which reference is made as a fact universally admitted, is that of compulsory military service. A typical passage is *In re Dassler*, 35 Kansas, 678, in which compulsory labor on the public roads was held not to contravene the Thirteenth Amendment. The court said (p. 684):

Such labor has never been regarded or construed by any of the authorities as falling within the terms of the constitution prohibiting slavery and involuntary servitude. Militia service is also compulsory, and if the theory of the petitioner is correct, such service, when involuntary, is within the terms of §6 of the bill of rights, and the thirteenth amendment to the constitution of the United States. Such however is not the case, and we do not think that art. 8 of the constitution of this state conflicts in any way with §6 of the bill of rights or with the thirteenth amendment. There are certain services which may be commanded of every citizen by his government, and obedience enforced thereto; among these services are labor on the streets or highway, and training in the militia.

See also *Bragg v. People*, 78 Ill. 328, 330; *Hoke v. Henderson*, 4 Dev. (N. Car.) 1, 29; *State v. Wheeler*, 141 N. Car. 773, 777; *People ex rel. German Ins. Co. v. Williams*, 145 Ill. 573, 583.

An instructive precedent may be found in the legislation affecting the Northwest Territory, important under the reasoning of this court in *Butler v. Perry*, *supra*, p. 332. It seems the first appearance of the lan-

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guage "neither slavery nor involuntary servitude" was in Jefferson's handwriting in 1784.¹ Jefferson was at that time on a committee of Congress to provide for the government of the Northwest Territory. The Writings of Jefferson, Ford's ed., vol. III, pp. 407, 410, 428, 429; Thorpe, Constitutional History of the United States, vol. I, p. 261. The language is adopted in the Northwest Ordinance of 1787, art. 6, 1 Stat. 53. Other sections of the Northwest Ordinance are as follows:

The governor for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress. (1 Stat. 51.)

Art. II. * * * No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the

¹ Evidently the author did not believe that the language prohibited compulsory military service, for Jefferson presented a conscription bill to the Virginia legislature in 1777; and in his Annual Message to Congress on December 3, 1805, he recommended universal compulsory training. Jefferson's Works, Ford's edition, vol. 2, p. 123; vol. 8, pp. 384, 392. He explained his recommendation in a letter to General Kosciusko February 26, 1810. Jefferson's Works, Washington edition, vol. 5, pp. 506, 507:

"Two measures have not been adopted, which I pressed on Congress repeatedly at their meetings. The one * * * the other was to class the militia according to the years of their birth, and make all those from 20 to 25 liable to be trained and called into service at a moment's warning."

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land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand particular services, full compensation shall be made for the same. (1 Stat. 52.)

Very soon after the creation of the Northwest Territory laws requiring personal militia service were passed. Chapter 1 (published July 25, 1788) and the "Laws of the Territory Northwest of the River Ohio from the Commencement of the Government to the 31st of December, 1791," page 3 (Chase, Statutes of Ohio, vol. 1, p. 92), provides:

§ 1. All male inhabitants between the age of sixteen and fifty, shall be liable to and perform military duty, and be formed into corps in the following manner.

All male inhabitants were required to be armed and equipped, and to assemble on the first day of each week, and as the Commander-in-Chief might direct. Chapter 8 of the above laws, page 30 (Chase, Statutes of Ohio, vol. 1, p. 102), passed November 23, 1788, required the officers of the militia to enroll all persons obliged to do military duty. A further amendment of July 2, 1791, chapter 23, page 66 (Chase, Statutes of Ohio, vol. 1, p. 113), provided that the captain of each company should order an assembly on the last day of every week in the year to exercise his company for two hours. These laws were reenacted September 16, 1799 (Chase, Statutes of Ohio, vol. 1, c. 86, p. 211).

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A comprehensive militia law, repealing the former statutes dealing with the militia, was enacted December 18, 1799. Ch. CV, Statutes of Northwest Territory, contained in vol. 1 of Chase's edition of Statutes of Ohio, p. 245. Section 1 of this statute provides:

That each and every free, able bodied, white male citizen, of the territory, who is or shall be of the age of eighteen years, and under the age of forty-five years, except as is hereinafter excepted, shall severally and respectively be enrolled in the militia * * *.

Provision is made in the law for calling forth the militia by classes. Secs. 16, 33, 35, 36.

Compulsory military service thus was not regarded in the Northwest Territory as "involuntary servitude." The Northwest Ordinance itself, which uses the language of the Thirteenth Amendment, also provides for militia service and for other particular compulsory personal service when necessary "for the common preservation." It is just as clear now as it was in 1787 that both classes of service rendered in performance of duties to the State are not slavery nor akin thereto.

IV.

THE ACT IS NOT UNCONSTITUTIONAL ON THE GROUND
THAT STATE OFFICIALS AID IN ITS ENFORCEMENT.

Counsel for plaintiffs in error in the *Arver*, *Grahl*, *O. Wangerin*, and *W. Wangerin* cases, Nos. 663, 664, 665, 666, present as their third point that the pro-

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visions that State officials aid in the enforcement of the act are contrary to section IV of the Constitution and Article X of the amendments. Apparently the contention is (1) that the State loses its republican form of Government; and (2) its reserved rights under the Constitution are infringed. Brief, pp. 40, 43, 48.) These points are not presented by plaintiffs' demurrer to the indictment, nor in the specifications of error in this court. Brief, p. 4.

The contention as to the guaranty of a republican form of Government is so wholly without merit as to justify no discussion. Moreover, the courts have no jurisdiction to consider it. *Luther v. Borden*, 7 How. 1; *Pacific Telephone Co. v. Oregon*, 223 U. S. 118.

As to the point that the State officials may not be required to aid in the enforcement of the law, plaintiffs in error are in no better position to raise the question. They are not State officials themselves nor is any State official here objecting. No statutory or constitutional provision of any State is cited as being infringed. If and when State officials appointed to carry out the Selective Draft Law do not voluntarily aid in the execution of the Federal law, questions as to the invasion of their rights and the State's sovereignty may properly be considered.

In executing the Federal law, however, State officials are *pro hac vice* Federal officials. It is settled that power may be conferred upon State officers as such to execute duties under an act of Congress in absence of contrary statutory or constitutional pro-

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visions of the State. *Prigg v. Penna.*, 16 Pet. 539, 622; *Robertson v. Baldwin*, 165 U. S. 275; *Levin v. United States*, 128 Fed. 826. This principle was applied in *Dallemagne v. Moisan*, 197 U. S. 169, where an arrest of a sailor in accordance with treaty provisions by a State policeman was held valid.

During the Civil War the act of July 17, 1862, c. 201, 12 Stat. 597, calling out the militia was administered largely by State officials upon request of the President. It was held that Congress had power to authorize the State officers so to act, and that officers acted correctly in exercising the authority delegated. *In re Spangler*, 11 Mich. 298; *In re Griner*, 16 Wis. 423, 433; *Druecker v. Salomon*, 21 Wis. 621, 625; see *Allen v. Colby*, 47 N. H. 544.

In *Claudius v. Davie*, 169 Pac. 689, the Supreme Court of California refused to grant a writ of prohibition to prevent State officials from enforcing the draft law now in question.

As a matter of fact, it is highly consonant with the maintenance of local government in its full vigor, with the preservation of the rights of the State and of the individuals in different communities, that the law be understandingly administered by denizens of the respective communities, rather than by an extensive force of Federal officials.

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V.

THE ACT DOES NOT DELEGATE LEGISLATIVE AUTHORITY TO ADMINISTRATIVE OFFICIALS.

This matter is discussed by counsel for plaintiffs in error in cases Nos. 663, 666, briefs, pp. 49 to 55 (Counsel in the *Ruthenberg* case, No. 656, also raise the point, brief, p. 31.)

The Selective Draft Law makes legislative provision for an army with which to prosecute the war. The general rules for increasing the military establishment are prescribed. As to the draft, the statutory provisions are as specific as is reasonably practicable. The rule is laid down of universal liability to military service for all male citizens between the ages of 21 and 30 years. (Sec. 2.) Men are to be called upon the principle of selective service, so that the entire resources of the Nation may be most effectively marshaled. Classes of exemptions are detailed in section 4 with this purpose in view. The President merely executes the legislative will. Large discretion in administration is of course absolutely essential. Such matters as the particular number of men required to meet shifting needs and the kinds of organizations into which they may most effectively be placed are administrative details peculiarly appropriate for the exercise of the discretion of the commander in chief, and particularly inappropriate for the inelastic decision of the deliberating legislative body.

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The law is thoroughly well settled by the decisions of this court. At the last term, the section of the Reserve Bank Act authorizing the Federal Reserve Board "to grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, or registrar of stocks and bonds" was sustained. *First National Bank v. Union Trust Co.*, 244 U. S. 416. This section is less specific as to the method of applying general rules than is the present law. The court, speaking through Mr. Chief Justice White, said (p. 427):

* * * we think it necessary to do no more than say that a contention which was pressed in argument * * * that the authority given by the section to the Reserve Board was void because conferring legislative power on that board, is so plainly adversely disposed of by many previous adjudications as to cause it to be necessary only to refer to them. *Field v. Clark*, 143 U. S. 649; *Buttfield v. Stranahan*, 192 U. S. 470; *United States v. Grimaud*, 220 U. S. 506; *Monongahela Bridge Company v. United States*, 216 U. S. 177; *Intermountain Rate Cases*, 234 U. S. 476.

The act of July 17, 1862, c. 201, 12 Stat. 597, which authorized the President, in calling out the militia of the States, to provide the entire body of procedure in those States which had no statutory provisions on the subject, was enforced in *In re Grinner*, 16 Wis. 423; *Druecker v. Salomon*, 21 Wis. 621,

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625; *In re Spangler*, 11 Mich. 298; *Allen v. Colby*, N. H. 544; see *McCall's Case*, 15 Fed. Cas. No. 8600 p. 1225.

Counsel in the *Minnesota* cases, Nos. 663, 664, 665, 666, are unfortunate in their citation of cases. They cite *United States v. Blasingame*, 116 Fed. 654, and *United States v. Keokuk Bridge Co.*, 45 Fed. 178 (brief, p. 51). The former was expressly overruled in *United States v. Grimaud*, *supra*, 220 U. S. 506, 515. The latter was decided before and is inconsistent with the decisions of this court in *Union Bridge Co. v. United States*, 204 U. S. 364, and *Monongahela Bridge Co. v. United States*, *supra*.

Throughout our history the common method of providing for increase in the land forces has been simply to vest authority in the President to raise the necessary troops. See the following statutes:

- Act March 3, 1791, c. 28, 1 Stat. 222, sec. 8.
- Act May 28, 1798, c. 47, 1 Stat. 558.
- Act March 2, 1799, c. 31, 1 Stat. 725.
- Act Feb. 24, 1807, c. 15, 2 Stat. 419.
- Act March 3, 1807, c. 39, 2 Stat. 443.
- Act Jan. 2, 1812, c. 11, 2 Stat. 670.
- Act Feb. 6, 1812, c. 21, 2 Stat. 676.
- Act April 8, 1812, c. 53, 2 Stat. 704.
- Act July 1, 1812, c. 119, 2 Stat. 774.
- Act Jan. 29, 1813, c. 16, 2 Stat. 794.
- Act Feb. 25, 1813, c. 31, 2 Stat. 804.
- Act July 26, 1813, c. 27, 3 Stat. 47.
- Act Jan. 28, 1814, c. 9, 3 Stat. 96.
- Act Feb. 24, 1814, c. 16, 3 Stat. 98.
- Act Jan. 27, 1815, c. 25, 3 Stat. 193, sec. 8.
- Act May 23, 1836, c. 80, 5 Stat. 32.

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- Act July 5, 1838, c. 162, 5 Stat. 256.
- Act May 13, 1846, c. 16, 9 Stat. 9.
- Act May 13, 1846, c. 17, 9 Stat. 11.
- Act June 17, 1850, c. 20, 9 Stat. 438.
- Act July 22, 1861, c. 9, 12 Stat. 268.
- Act July 25, 1861, c. 17, 12 Stat. 274.
- Act July 31, 1861, c. 34, 12 Stat. 285.
- Act July 17, 1862, c. 201, 12 Stat. 597, sec. 3.
- Act March 3, 1863, c. 75, 12 Stat. 731.
- Act Feb. 24, 1864, c. 13, 13 Stat. 6, sec. 1.
- Act July 4, 1864, c. 237, 13 Stat. 379.
- Act April 22, 1898, c. 187, 30 Stat. 361, sec. 5.
- Act May 11, 1898, c. 294, 30 Stat. 405.

VI.

THE ACT DOES NOT INFRINGE THE PROVISIONS OF THE
CONSTITUTION CONCERNING THE JUDICIAL POWER.
ARTICLE I, SECTION 8, CLAUSE 3; ARTICLE III, SECTIONS
1 AND 2.

Counsel in the *Ruthenberg* case argue that the act by authorizing the President to establish in his discretion local boards to determine the inclusion or discharge of individuals or classes of individuals from the selective draft usurps judicial power (No. 656, brief, p. 33).

The boards of exemption do not exercise judicial power. They determine conditions of fact necessary to be ascertained by the Executive in enforcing the law. The boards aid in carrying out the legislative requirements that those subject to the draft who under all the circumstances may best be spared and are best qualified should render military service. Their duties are administrative. Surely it will not

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be urged that in order to select the recruits for our defense the Federal courts must first pass upon every claim for exemption while meantime the armies of the enemy progress.

If the boards of exemption usurp judicial power then the board of tea inspectors does likewise in passing upon the quality of tea fit for importation, *Buttfield v. Stranahan*, 192 U. S. 470, 497, to the contrary notwithstanding; then does also the Secretary of the Interior in determining who is an Indian within the terms of a land grant, in spite of *West v. Hitchcock*, 205 U. S. 80. The executive who determines whether an alien is fit physically to enter the United States does not invade the province of the Federal judiciary; *Oceanic Navigation Co. v. Stranahan*, 214 U. S. 320, 338-340; see *Fong Yue Ting v. United States*, 149 U. S. 698, 730; nor do the boards of special inquiry in determining the claims for admission of aliens to our shores. In *Union Bridge Co. v. United States*, 204 U. S. 364, this court held that the Secretary of War does not exercise judicial powers in determining whether a bridge is an unreasonable obstruction to navigation (pp. 385, 387).

A contention similar to that now considered was raised in *Zakonaite v. Wolf*, 226 U. S. 272, with reference to the power of executive officials to determine the facts upon which a deportation order of an alien may be based. In a memorandum opinion this court disposed of the contention as follows (p. 275):

The appellant raises some other constitutional objections, viz.: * * * that the

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[immigration] act vests judicial powers in an executive branch of the Government * * *. These are without substance, and require no discussion.

VII.

THE DUE-PROCESS CLAUSE OF THE CONSTITUTION IS NOT VIOLATED.

Counsel in the *Minnesota* cases, Nos. 663-666, raise the point that the act deprives citizens of all liberty without due process of law "since it assumes to confer upon the President of the United States discretionary and arbitrary powers in the selection of citizens into the draft army" (briefs, pp. 55, 56). It is asserted that citizens may be selected "upon the whim of a State official" (briefs, p. 61). The due process point is raised in the *Jones* case, No. 738 (R. p. 15); in the *Kramer* case, No. 681 (R. p. 35); in the *Ruthenberg* case, No. 656 (brief, pp. 35-37).

There is no charge that the act requires an arbitrary selection of citizens. No complaint is made that the act has been arbitrarily or unfairly administered. The contention is that discretionary powers are granted to the President in its administration to so large an extent that he or his subordinates may act upon their mere caprice.

Nothing in the law justifies this assertion. Large discretionary powers in executing the law are granted and necessarily granted, but the act as a whole provides a fair and orderly method of selection for military service, and forbids the unjust and dictatorial caprice which counsel believe to be authorized.

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From the point of view of due process of law, proceeding is most surely authorized if it was normal and customary method with the people of this country at the time the Constitution was adopted. *Murray's Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272.

It is true that the law provides for the restraint of the liberty of the citizen to a certain extent. Yet to protect most truly the liberties of people who live together in communities it is plain that some governmental organization and some exercise of governmental powers are necessary. The pioneer on the frontier may be subject to no master. There is no absolute freedom, however, in civilized societies. Our own history prior to the adoption of the Constitution, and the present experience of one of the Allies vividly show, moreover, that the government which exercises least powers may be the instrument of tyranny in the hands of domestic disturbers, as well as the facile tool of foreign conquerors. The Federalist, speaking to the point in 1787, states (No. 26 pp. 170, 171):

It was a thing hardly to be expected that in a popular revolution the minds of men should stop at that happy mean which marks the salutary boundary between power and privilege, and combines the energy of Government with the security of private rights.
* * *

The idea of restraining the Legislative authority, in the means of providing for the national defense, is one of those refinements

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which owe their origin to a zeal for liberty more ardent than enlightened. * * * And I am much mistaken, if experience has not wrought a deep and solemn conviction in the public mind, that greater energy of Government is essential to the welfare and prosperity of the community.

Illustrations may be cited without number to show that in order to protect the liberties of the people as a whole the individual citizen may incidentally or temporarily be restrained of his liberties. It was in a case upholding the power of the State to compel vaccination that Mr. Justice Harlan said (*Jacobson v. Massachusetts*, 197 U. S. 11, 29):

The liberty secured by the Fourteenth Amendment, this court has said, consists, in part, in the right of a person "to live and work where he will," *Allgeyer v. Louisiana*, 165 U. S. 578; and yet he may be compelled, by force if need be, against his will and without regard to his personal wishes or his pecuniary interests, or even his religious or political convictions, to take his place in the ranks of the army of his country and risk the chance of being shot down in its defense.

Yet military service, cited as the extreme example of restriction of personal liberty, is only temporary, incidental to the security of the citizens as a whole, and only so far imposed as is necessary for the purpose. The few who are compelled to serve do so that the many who remain at home at the present time, and the generations who come in the future, may

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Notes: Title page dark and barely legible. Fifty-six shots of 109 pages. For Weinberger's brief, see 871211000.

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enjoy those blessings of freedom which this Government was established to secure.

VIII.

THE SELECTIVE DRAFT LAW NEITHER ESTABLISHES A RELIGION NOR PROHIBITS ITS FREE EXERCISE.

Counsel in the *Kramer* case, No. 681, and in the *Goldman and Berkman* case, No. 702, assign as error that the Selective Draft Law

violates Article I of the Amendments of the United States Constitution which reads as follows: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." (R. No. 681, p. 34.)

The Selective Draft Law exempts from military service

a member of any well-recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organizations, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant. (Sec. 4.)

This provision has nothing in it "respecting an establishment of religion." The law recognizes the right of every citizen to choose religious affiliations without restriction. It goes so far as to aid

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in the free exercise of those religions which forbid participation in war.

Under section 4 also may be exempted "those found to be physically or morally deficient" and those with dependents. It will not be argued that the law establishes a status of physical or moral deficiency, or of financial dependency; nor that freedom to change these conditions is prohibited.

IX.

OTHER CONSTITUTIONAL QUESTIONS UNDER THE ACT.

1. Counsel in case No. 702 contend that Article I, section 8, clause 12, of the Constitution is violated in that appropriations for the support of the army are made for more than two years (brief, p. 90). Probably counsel did not notice that the Selective Draft Law which is now in question makes no appropriation whatsoever.

2. Counsel in the same case assign as error a violation of Article IV, section 2, subdivision 1 (R. No. 702, p. 537). Their brief contains no discussion on this point.

3. They also suggest that the act denies citizens the equal protection of the laws (brief No. 702, p. 96).

The clause in the Fourteenth Amendment guaranteeing equal protection of the laws is addressed not to Congress but to the States. Amendment XIV; *Flint v. Stone Tracy Co.*, 220 U. S. 107, 158, 159.

Granting, however, that Congress were restricted by a similar clause, each of the exemptions pro-

The Emma Goldman Papers

871221000

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vided by the Selective Draft Law has reason behind it (sec. 4). The law proceeds upon the equitable principle that all citizens are subject to call as they particular services are demanded. Exemptions are provided from direct military service because service in other capacities aids more directly in the successful prosecution of the war.

Exemptions to greater or less extent have been contained in every compulsory military service law passed by the States of the United States (see Appendices "A," "B," "C," *infra*, pp. 123, 131, 133). It is interesting that Quakers and conscientious objectors were frequently exempted during the Revolutionary War:

Virginia, Act July 1775, c. 1, 9 Hening, St. L. pp. 9, 28, 34.

Virginia, Act October 1777, c. 1, 9 Hening, pp. 337, 345.

North Carolina, Laws April, 1778, c. 1, sec. 13, vol. 24, State Records 190, 193.

New Hampshire, Metcalf's ed., vol. 4, pp. 273, 274, Act March 18, 1780, c. 12.

Rhode Island, Laws, February, 1777, pp. 8, 17.

Rhode Island, Laws, October, 1779, pp. 29, 88.

New York, Act April 1, 1777, c. 28, Laws N. Y., vol. 1, 1777 to 1784, pp. 51, 54.

New York, Act April 3, 1778, c. 33, Laws *supra*, pp. 62, 70-71.

New York, Act March 11, 1780, c. 55, Laws *supra*, p. 237, 245.

New York, Act April 4, 1782, 5th sess., c. 27, Laws 440, 449.

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Massachusetts, Resolves June 12, 1778, c. 51 p. 13.

Massachusetts, Laws 1781, c. 21, p. 33.

Massachusetts, Act Mar. 10, 1785, Perpetual Laws of Mass. 1780-1789, pp. 338, 347, secs. 42; 43.

On the other hand, the usual exemption to Quakers was not extended in Pennsylvania. See Act of March 20, 1780, c. 92, vol. 10, Stat. L., pp. 144, 146.

If the argument against this law upon constitutional grounds be not frivolous, then that adjective has lost its legal significance.

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The Emma Goldman Papers

8/12210001

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No. 702.

**Emma Goldman and Alexander Berkman, Plaintiffs
in Error, v. United States.**

The brief for plaintiffs in error in this case presents two points in addition to the contention of unconstitutionality: (1) That the indictment is insufficient; (2) that there was no evidence of defendants' guilt.

I.

THE INDICTMENT WAS SUFFICIENT.

The indictment charged that the defendants, together with divers unknown persons, conspired to induce men of draft age not to register as required by section 5 of the act of May 18, 1917, Public No. 12, 65th Congress; section 37 and section 332 of the Criminal Code (35 Stat. 1088, c. 321). Five overt acts are charged (R. 2-6) and, as acts, admitted: (1) Emma Goldman on May 18 made a speech at a public meeting in the Harlem River Casino in New York (R. 137); (2) Berkman on June 1 published "The Blast," vol. 2, No. 5 (R. 55, 111, 171, 475); (3) on June 2 Miss Goldman gave to one Haggerty a copy of the June, 1917, issue of "Mother Earth" (R. 130, 132, 478); (4) Berkman delivered an address on June 4 at Hunt's Point Palace; and (5) Emma Goldman delivered a speech at the same time and place (R. 165, 421).

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The indictment states a crime. It is not a necessary ingredient that the purpose of the conspiracy be consummated. There is no merit in point one.

II.

THE EVIDENCE OF GUILT WAS AMPLE.

Evidence on behalf of the Government tending to prove the conspiracy is as follows:

Defendants, if not the organizers, were active members and leading spirits of the No-Conscription League (R. 18, 19). The fact of the confederation between the two defendants and others is shown by their work in connection therewith. The organization was effected on May 9, 1917, at Miss Goldman's apartment, both defendants being present (R. 22, 23, 33). Plans were laid for the mass meeting of May 18 (R. 24). Further preliminary meetings of the inner circle were held on Wednesday evenings May 16 and 23 (R. 258, 343). Both defendants were present on May 16, when plans for the mass meeting of May 18 were perfected (R. 27, 63). Berkman presided over the group meeting of May 23 (R. 242), also held at Miss Goldman's apartment (R. 281), at which arrangements were made for the mass meeting of June 4. Miss Goldman being in Massachusetts at the time, sent a message purporting to give her stand on registration (R. 531).

The office of the league was in the same building in which the defendants had offices (R. 17). Berkman held the money collected (R. 42, 43, 47, 465); ordered and paid for thousands of circulars (R. 95,

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871211000.

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96, 100, 103, 104); rented the Harlem River Casino for the mass meeting of May 18 (R. 28, 29, 454, 455).

The purpose of the league was, as its name implied, to work against conscription. A manifesto was issued May 25, 1917, announcing in part as follows (R. 453):

The No-Conscription League has been formed for the purpose of encouraging conscientious objectors to affirm their liberty of conscience and to make their objection to human slaughter effective by refusing to participate in the killing of their fellow men. The No-Conscription League is to be the voice of protest against the coercion of conscientious objectors to participate in the war. Our platform may be summarized as follows:

We oppose conscription because we are internationalists, anti-militarists, and opposed to all wars waged by capitalistic governments.

We will fight for what we choose to fight for; we will never fight simply because we are ordered to fight.

We believe that the militarization of America is an evil that far outweighs, in its anti-social and anti-libertarian effects, any good that may come from America's participation in the war.

We will resist conscription by every means in our power, and we will sustain those who, for similar reasons, refuse to be conscripted.

(R. 454) Resist conscription. Organize meetings. Join our League. Send us money. Help us to give assistance to those who come in conflict with the government. Help us

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to publish literature against militarism and against conscription.

We consider this campaign of the utmost importance at the present time. Amid hateful, cowardly silence, a powerful voice and an all-embracing love are necessary to make the living dead shiver.

NO-CONSCRIPTION LEAGUE,
20 East 125th St., New York.

In order to enlist as many as possible in the effort to resist "by every means in our power" and to "sustain those who, for similar reasons, refuse to be conscripted," large public mass meetings were arranged, at which direct appeals were made not to register. On May 18 at the Harlem River Casino mass meeting the defendant Goldman said in part (R. 138, 478):

We don't believe in conscription, this meeting to-night being a living proof. This meeting was arranged with limited means. So, friends, *we who have arranged the meeting* are well satisfied if we can only urge the people of entire New York City and America, there would be no war in the United States—there would be no conscription in the United States—(applause)—if the people are not given an opportunity to have their say.

(R. 482) Now, friends, do you suppose for one minute that this Government is big enough and strong enough and powerful enough to stop men who will not engage in the war because they don't want the war, because they don't believe in the war, because they are not going

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871211000.

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to fight a war for Mr. Morgan? What is the Government going to do with them? They're going to lock them up. You haven't prisons enough to lock up all the people (applause).

(R. 483) How many people are going to refuse to conscript, and I say there are enough. I would count at least 50,000, and there are enough to be more, and they're not going to when only they're conscripted. They will not register (applause).

We are going to support all the men who will refuse to register and who will refuse to fight (applause). (See also R. 161, 404.)

We want you to fill out these slips and as you go out drop them into the baskets at the door. We want to know how many men and women of conscriptive age—and they're going to take women and not soldiers.

(R. 484) We will have a demonstration of all the people who will not be conscripted and who will not register. * * *

I will say, in conclusion, that I, for one, am quite willing to take the consequences of every word I said and am going to say on the stand I am taking. I am not afraid of prison—I have been there often.

(R. 485) So, friends, it is our decision tonight. We are going to fight for you, we are going to assist you and co-operate with you, and have the grandest demonstration this country has ever seen against militarism and war. What's your answer? Your answer to war must be a general strike, and then the governing class will have something on its hands. (See R. 161, 162, 410-415, 417—Ex. 61, 62, R. 513.)

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This language is from the stenographic reports. There can be no doubt of its correctness. Two stenographers, neither of whom knew that the other was there, caught the same language, the notes and transcripts not being compared (R. 137, 138, 417).

On the eve of registration, June 4, at Hunt's Point Palace, another mass meeting was held (R. 71, 72). Many men of draft age were among the thousands present (R. 360). Both defendants made speeches, which were reported by a stenographer employed by defendants (R. 165, 487). The report is admittedly correct (R. 421). Berkman said in part (R. 487):

But we say further to you, if you believe in liberty, if you pretend to fight for liberty and democracy how can you force us to do what we don't want to do? (Great applause and cheering.)

(R. 489) Don't make light of it, because it is the most terrible and tragic moment in the life of the country. Conscription in a free country means the cemetery of liberty, and if conscription is the cemetery then registration is the undertaker. (Great applause and cheers and boos, and something thrown at the speaker that looked like a lemon.)

All right, I am talking now; you can talk later. (Some one in the gallery threw something at the speaker and said something the stenographer could not understand.) Those who want to register should certainly register, but those who know what liberty means, and I am sure there are thousands in this country,

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The Emma Goldman Papers

8/1221000

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they will not register. (Many hurrahs and great applause.) There have been many black days, many black Fridays, and black Sunday in the history of this country. * * * But there is going to be a blacker day, not a black Friday, but a black Tuesday. (Great applause.) And I believe that those who realize the full significance of forcing a supposedly free country into an armed camp, those who realize that should put on mourning tomorrow.

At the same meeting the defendant Goldman said (R. 492):

We say that those who believe in war, believe in conscription and in militarism and should do their duty and fight. We have no objection against it, but we refuse to be compelled to fight when we don't believe in war and when we don't believe in militarism and when we don't believe in conscription. * * *

(R. 494) Now, friends, I am here frankly and openly telling you that I will continue to work against Conscription.

* * * Now friends, if I do not tell you tonight not to register, it is not because I am afraid of the soldiers, or because I am afraid of the police. I have only one life to give, and if my life is to be given for an ideal, for the liberation of the people, soldiers, help yourselves. My friends, the only reason that prevents me telling you men of conscriptable age not to register is because I am an Anarchist, and I do not believe in force morally or otherwise to induce you to do anything that is against your conscience, and that is

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why I tell you to use your own judgment and rely upon your own conscience. It is the best guide in all the world. If that is a crime, if that is treason, I am willing to be shot.

(R. 497) Don't forget, friends, that the opposition to conscription only begins, it does not end tonight.

The direct purpose of the league to procure as many men as possible not to register is apparent from these speeches. It is also demonstrated by the appeal for support dated May 25, 1917, which contains the following (R. 138, 455, 456, 457):

(R. 456) * * * There are thousands of men who will not under any circumstances allow themselves to be conscripted. * * * Something must be done to sustain these men to whom the Ideal of Liberty and Human Solidarity is not a mere phrase, but a vital, living fact.

With that in view, we have organized the *No-Conscription League*. Its first public activity took place on Friday evening, May 18th—a mass meeting attended by 8,000 men and women who pledged their decision not to register or to be conscripted into killing.

This was sent out to thousands of persons whose names were furnished by the defendants. Letters to those on Berkman's list were signed "Alexander Berkman"; those on Miss Goldman's list were signed in her name. (R. 30-33, 37, 38, 458, 463.)

The theory of the defendants was that they directed their efforts against conscription yet did not give advice not to register, but refused to give such

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advice (R. 204); that they advised that each should do as his judgment and conscience dictated ' (R. 209, 228, 232, 252, 531). This notion is still insisted upon in defendant's brief.

According to their own confession, therefore, they did not advise obedience to the law; but that the conscientious objector should disobey, if his judgment so dictated.

Grant that defendants did distinguish between conscription and registration, the result reasonably deduced from advice not to be conscripted is to refuse to take the first step. Defendants' witness, Lind, understood Miss Goldman to say at the meeting on June 4 that all conscientious objectors would be assisted by the No-Conscription League whether they got into difficulties from refusal to register or from refusal to obey orders after registration (R. 404, 405).

But defendant's own words demolish their theory. Both distinctly and expressly solicited refusal to register. On June 2 "The Blast" was published by Berkman, and on June 1 "Mother Earth" was issued by Miss Goldman. The June "Blast" contains the following (R. 475, 476):

REGISTRATION.

Registration is the first step of conscription.
The war shouters and their prostitute press,
bent on snaring you into the army, tell you

'At the meeting of the esoteric on May 23, Attorney Weinberger spoke. In the group there was "appreciation expressed that advice not to register would land the person so advising in jail." (R. 287.)

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that registration has nothing to do with conscription.

They lie.

Without registration, conscription is impossible.

* * * * *

Every beginning is hard. But if the government can induce you to register, it will have little difficulty in putting over conscription.

By registering you wilfully supply the government with the information it needs to make conscription effective.

* * * * *

(R. 477) The consistent, conscientious objector to human slaughter will neither register nor be conscripted.

ALEXANDER BERKMAN.

* * * * *

WAR DICTIONARY

ALEXANDER BERKMAN

Allies—The fairies of Democracy.

Conscription—Free men fighting against their will.

Liberty Bond—A bone from a bonehead.

Militarism—Christianity in action.

Patriotism—Hating your neighbor.

Registration—Funeral march of Liberty.

Trenches—Digging your own grave.

The June number of "Mother Earth," published and edited by Miss Goldman (R. 112-114, 170), also speaks to the point (R. 467-473):

(R. 470) What, then, is to be done?

We can decide for no one. We do not claim omniscience, nor the gift of prophecy.

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But we can point out certain self evident truths. Draw from them your own conclusions and decide your course of action.
* * * There are no subtle distinctions made by liberty loving people in their objection to conscription in toto. Why, then, should there be no militant objection to the first integral part of it—REGISTRATION?

* * * * *
Registration is literal and final in its meaning. *It is the first step over the precipice into the bottomless pit of conscription.* It is the first and only step necessary toward the establishment of an institution only comparable to the now extinct Third Section of Russia. It is the resignation of the rights of the individual to a militarily supervised government. It implies the abrogation of every instinct as well as any principle you may have against bearing arms. It means that you sanction and willfully choose obedience and that you repudiate your right to resistance. * * *

Do what your conscience dictates on June 5th and thereafter.

CONCLUSION.

The writs of error and the appeal should be dismissed or the several judgments of the courts below affirmed.

JOHN W. DAVIS,
Solicitor General.

ROBERT SZOLD,
Attorney.
DECEMBER, 1917.

APPENDIX "A."

STATUTES REQUIRING MILITIA SERVICE PRIOR TO THE ADOPTION OF THE CONSTITUTION.

CONNECTICUT.

Book of Gen. Laws (Green 1673, p. 49).
Acts and Laws, 1702, p. 76.
Acts and Laws, 1715, p. 78.
Acts and Laws, 1733 (Green, Laws to 1772, p. 155).
Acts and Laws, 1755 (Green, Laws to 1772, p. 277).
Acts and Laws, 1756 (Green, Laws to 1772, p. 284).
Acts and Laws, 1772 (Green, Laws to 1772, p. 373).
Acts and Laws, 1784, p. 144.

DELAWARE.

Laws of New Castle, Kent, and Sussex upon Delaware, p. 171 (1741).
Acts 1746, c. 84, Acts (Bradford, 1752), p. 301.
Act June 4, 1785, Laws 1785, p. 57.

GEORGIA.

Act Sept. 29, 1773, Colonial Records (Candler), Vol. XIX, pt. 1, p. 291.
Act Jan. 24, 1755, Colonial Records (Candler), Vol. XVIII, p. 7.
April 24, 1760, Colonial Records (Candler), Vol. XVIII, p. 426.
Act November 15, 1778, Colonial Records of Ga. (Candler), Vol. XIX, pt. 2 (1774-1805), p. 103.
Act February 26, 1784, Colonial Records (Candler), Vol. XIX, pt. 2, p. 348.

MARYLAND.

Act June 3, 1715, c. 43.
Act June 8, 1719, c. 1.
Act Nov. 3, 1722, c. 15.

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The Emma Goldman Papers

810206020

[Letter] 1917 Dec. 12, Detroit, Mich. [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Joseph Yanowitz. — 1 p. ; 23 x 18 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The secretary of the Detroit Workers' Defense League asks the Supreme Court clerk for a copy of the proceedings in the Goldman-Berkman case.

Notes: For reply, see 810206021.

Detroit Workers' Defense League

AFFILIATED WITH THE INTERNATIONAL WORKERS' DEFENSE LEAGUE

JOSEPH YANOWITZ, Secy
30 Library Avenue, Detroit

JUSTICE FOR THE WORKERS EVERYWHERE

AUGUST A. MILLER, Treas.
30 Library Avenue, Detroit

Meets Every Sunday 10:30 A. M.

AT MACHINIST'S HALL, 30 LIBRARY AVENUE
DETROIT, MICHIGAN

Labor Organizations Represented Oct. 1, 1917

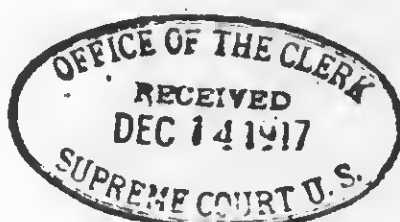
Brewery Workers' Union No. 5
Carpenters' Union No. 109
Carpenters' Union No. 109
Dentists' Federation of Detroit
Electrical Workers' Union No. 17
Electrical Workers' Union No. 58
Electrical Workers' Union No. 484

Electrical Workers' Union No. 514
Industrial Workers of the World Union
Italian Socialists' Federation
Journeyman Tailors' Union No. 229
Machinists' Union No. 82
Millwrights' Union No. 1102
Molders' Union No. 31

Molders' Union No. 244
Molders' Union No. 317
Molders' Union No. 409
Plumbers' & Steam-fitters' No. 636
Poole Zion Br. 1
Sholem Aleichem Br. 104
Secretotypers' Union No. 9

Tile Layers' Union No. 85
Truck Drivers' Union No. 14
Workmen's Circle Br. 156
Workmen's Circle Br. 181
Workmen's Circle Br. 337
Workwomen's Club
W. I. N. L. L. No. 325

DETROIT, MICH., Dec. 12th, 1917.



James D. Maher, Clerk,
Supreme Court of the United States,
Washington D.C.

Dear Sir:-

Kindly mail me a copy of the proceedings
of Emma Goldman and Alexander Berkman cases.

Very truly yours,

DETROIT WORKERS' DEFENSE LEAGUE

Joseph Yanowitz Secretary.

JAY-L

ml

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The Emma Goldman Papers

[Letter] 1917 Dec. 13 [Washington, D.C. to] Nicholas Biddle [Military Intelligence Division, War Department], New York / R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department]. — 1 p. ; 28 x 22 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Van Deman notifies Biddle that Goldman might be organizing committees to assassinate public officials. He suggests ways to investigate.
Notes: Broken type; light copy. For reply, see 890513000 and 870810030.

10110-524

W C D
F P A

December 13, 1917. DEPARTMENT

Major Nicholas Biddle,
302 Broadway,
New York City.

My dear Biddle:

A report to this office is to the effect that Emma Goldman is assisting in organizing Committees of Five throughout the country, who are instructed to act at a given time in various parts of the United States for the purpose of killing men, from the President to District Attorney, and that the day and hour for this job will be designated by Louis Weitzenkorn and Miss Winner, who are heads of an organization known as the "Guillotine". Also that these two persons are actively organizing with Emma Goldman.

Capt. Adams says that Weitzenkorn runs a column of verse and prose in the New York Call; that the column is called "The Guillotine;" and that the organization may be nothing more sinister than a meeting of contributors, such as column contributors often hold. Who Miss Winner is he does not know.

Weitzenkorn used to be a student at the Columbia School of Journalism. A man who may know a good deal about him is Robert Emmet MacAlarney, of the Farcus Players, MacAlarney was a professor at the School of Journalism. Another source is a classmate, Mr. Morris Ryskind, a World reporter. Capt. Adam's name may be used with both of these men.

Very sincerely,

R H VAN DEMAN

Colonel, General Staff,
Chief, Military Intelligence Section.

ch

Filed, W. C. D. G. S. 10110-524

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Report on I.W.W. Anarchists - Pacific Coast] Los Angeles [19]17 Dec. 13 / [Agent] 102 [Military Intelligence Division, War Department]. - 1 p. ; 28 x 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agent 102 reports on her conversation with Mrs. Perry McCullough, a Los Angeles anarchist, regarding the I.W.W.'s sabotage plans. Mrs. McCullough labels Robert Henri a personal friend of Goldman.

Notes: For related documents, see 850205098 and 810402039.

Los Angeles, Cal., Dec 13-17

Enc. 2
OFFICE OF THE
ADJUTANT GENERAL
DIVISION
10/10-564
5
WAR DEPARTMENT

I was with Mrs. Perry McCullough yesterday, took her to lunch and to a matinee in the afternoon. She said that the leading anarchists and I.W.W.'s of Los Angeles, or rather, one group of these leaders met only a few days ago at her house, 4025 Winter Street, and decided to guard against possible arrest and concealed any incriminating literature in their possession and that they put all their printed propaganda together and sent them away. Agent learned, however, that there was a meeting at the above number last Sunday morning, December 9th, and at this meeting was Mr. and Mrs. P. McCullough, Gertrude Barrett, and Claire Helaine, and after this meeting they took an automobile and went to a place about two miles away, where they doubtless buried the propaganda in question. Agent will be informed on this matter further but must wait ~~until~~ for the information to be given voluntarily. Mrs. McCullough also said that the I. W. W.'s had decided to quit the use of bombs or anything requiring the use of a fuse to make it effective, that almost all of the bombs they have tried in recent times have gone astray and did not accomplish the object they were aimed at. She mentioned the Los Angeles Times Explosion, the failure at Gen. Otis' residence, and the San Francisco Preparedness Day Parade affair, and in addition to this she went on to describe the methods they have to employ in making bombs, that they had to gather the different parts of the bombs at widely different places, and had to employ a number of people in it, making the danger very great, and because of this danger they have decided to do away with the bomb, except where an explosion is the only effective agency, and instead they are using a mixture of phosphorous, for the purpose of setting fire to the object to be destroyed. This mixture of phosphorous is carried in a wet state, and as long as it is kept wet it is harmless, but when they want to set a fire they take whatever amount is necessary and place it where it will be most effective as soon as the water in it evaporates, it will take fire and ignite anything inflammable near it. She says they are using this to start these mysterious fires all over the country, and in the wheat fields, and on the farms, and on account of it taking several hours for the phosphorous to ignite, the sabotage worker can be clear out of the country and free from suspicion. Mrs. McCullough informed Agent that Robert Henri, a portrait artist in New York City, is a Red, and a personal friend of Emma Goldman, that George Edwards, the musical composer and song writer, who lives in San Diego, and whom Agent has met at several of the Radical dinners here, is an anarchist and is in touch with the leaders of the movement at all times. Mrs. McCullough and her husband are both American born and while they believe in their anarchistic doctrines, and earnestly believe that a world revolution is inevitable, they are not the kind who would actually participate in any of the destruction work, or crimes that the Society countenances. Although they have the confidence of sabotage workers, and the very worst element in their organization, they say there are very few sabotage workers among the I.W.W. or Anarchists who are American born, that the majority of these as well as the radicals of every kind all over the country are foreign born Jews, many of them from Russia. They think that if the Government would allow it, a great many of the radicals in this country would join the Revolutionists in Russia at this time. Agent is informed that a man by the name of Townsend, who is an attorney, is a radical, and an intimate friend of Ben Reitman, who lived at his residence while in Los Angeles. Agent is not positive, but thinks this is James W. Townsend, 2347 Ocean View, Los Angeles. Agent was a visitor at this residence several months ago, but went in a closed automobile and was never told the number or street. Ben Reitman stops at this place whenever in Los Angeles. Respy 102

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103

The Emma Goldman Papers

[Memorandum] 1917 Dec. 14, San Francisco [to A.P. Niblack] Director [Office of] Naval Intelligence [Navy Department, Washington, D.C.] / W[illia]m C. Van Antwerp, Officer in Charge, Branch Naval Intelligence Office [Navy Department]. - 1 p.; 26 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: Van Antwerp reports that anarchists on the west coast have been told to send Goldman's mail to Stella Cornyn (Ballantine) in New York.

Notes: For related documents, see 800519023 and 800519037.

BRANCH OFFICE
BALBOA BUILDING
SAN FRANCISCO, CAL.

DEC 14 1917

CONFIDENTIAL

December 14, 1917.

VA/FAK

From: Officer-in-Charge, Branch Naval Intelligence
Office, San Francisco

To: Director of Naval Intelligence

SUBJECT: EMMA GOLDMAN'S MAIL

1. Anarchists on the Pacific Coast have received word from New York to address all of Emma Goldman's mail in future to Stella Cornyn, 226 Lafayette Street, New York City.

W.C. Van Antwerp

21020
/ 3

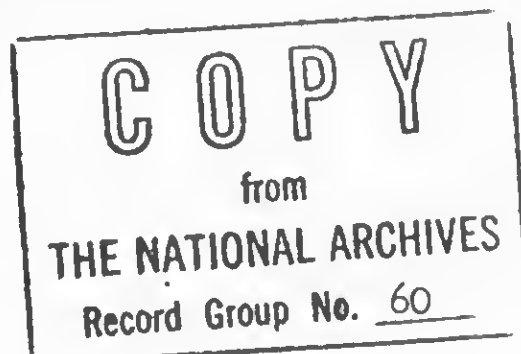
The Emma Goldman Papers

[Letter] 1917 Dec. 14, New York [to John W. Davis] Solicitor General [Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey received a copy of the solicitor general's brief in the Selective Draft cases and would like ten more copies for various judges in New York.

Notes: For reply, see 810113270.



Records of the Department of Justice
Central File Number 186233-13 (Section 1)

ADDRESS REPLY TO
"UNITED STATES ATTORNEY"
AND REFER TO
INITIALS AND NUMBER

B.A.M. JCK
15490

Department of Justice

United States Attorney's Office
New York

GL/CB

Dec'r 14 1917

The Solicitor General,
Washington, D. C.

S i r :-

I am in receipt of one copy of your brief in the Selective Draft Cases. Several of the Judges here have asked for copies of this brief and if it is possible for you to send me 10 additional copies for handing up to the Judges and for the use of the Assistants in this office, I will greatly appreciate it.

Respectfully,

Francis G. Caffey

U. S. Attorney.

DEC 19 1917

186233-13-73

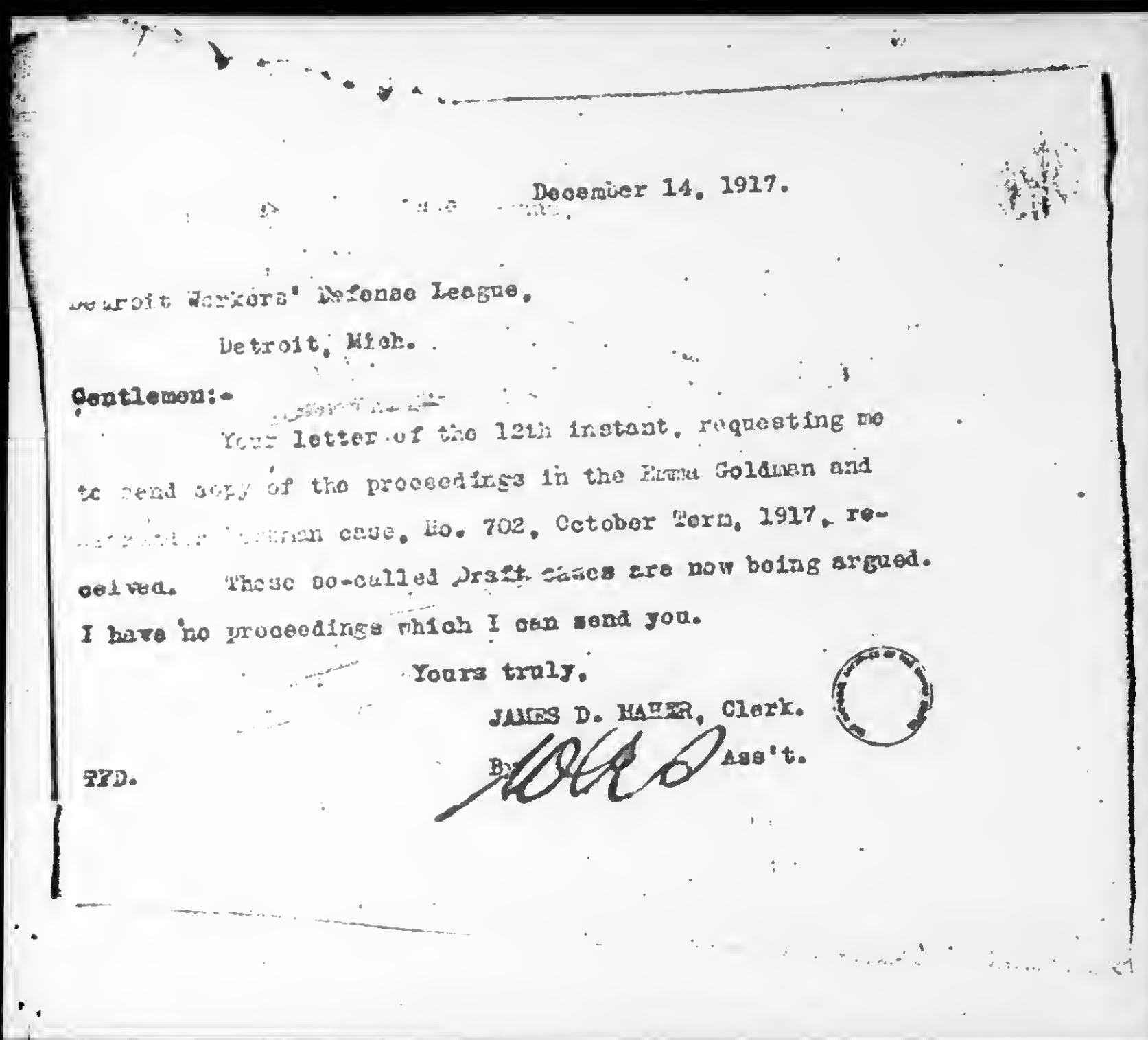
DEC 13 P.M.

The Emma Goldman Papers

[Letter] 1917 Dec. 14 [Washington, D.C. to Joseph Yanowitz] Detroit Workers' Defense League, Detroit, Mich. / James D. Maher, Clerk [United States Supreme Court].
— 1 p. ; 15 × 16 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court clerk cannot send the Detroit Workers' Defense League proceedings in Goldman and Berkman's appeal, because there are none.



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The Emma Goldman Papers

[Letter] 1917 Dec. 15, New York [to] W.J. Hughes, Ass[istan]t Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger asks Hughes for ten copies of the government's briefs in the related Selective Draft cases, as promised.

Notes: Handwritten corrections by Weinberger. For reply, see 850712211.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 1)

HARRY WEINBERGER
COUNSELOR AT LAW
261 BROADWAY, NEW YORK
TELEPHONE CONNECTION

December 15th, 1917

Hon. W. J. Hughes,
Asst. Solicitor General,
Department of Justice,
Washington, D.C.

My dear Mr. Hughes:-

Will you kindly see that I get
the ten copies of the Government's brief as promised
in the case of Emma Goldman-Alexander Berkman vs.
the United States and Others, *thirty copies in all*

For yourself personally, you might
let me know if you will desire a few extra copies of
my brief, and I will be glad to let you have same.

Yours very truly,

Harry Weinberger

DEC 18 1917
186233-13-71 1/2

The Emma Goldman Papers

[Letter] 1917 Dec. 15 [New York to] Thomas E. Watson, Thomson, Ga. / [Harry Weinberger]. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger describes his appearance before the Supreme Court in Goldman's appeal and asks for Watson's opinion on how the Fourteenth Amendment affects the federal conscription power.

Notes: Broken type; light copy; portions illegible.

December 15th, 1917

Thomas E. Watson, Esq.,
Thomson,
Georgia.

My dear Mr. Watson:-

I have sent you the additional briefs and cases, and the reason I printed the case was because that was the instruction of Mrs. Fyfe in her letter of November 16th, that she wanted six copies. However, as the cost of printing thirty copies was the same as six, I had thirty printed.

Mr. Jones made a brilliant case and before the Court and added weight to all our present plea. I believe also that the admonition from the Court to the which newspapers played up so fully was wholly misplaced for and unjustified.

From some of the things Judge White said at the end of the argument, I would think that he has in mind that the Fourteenth Amendment which also prohibits of the States also citizens of the United States will be the ground on which they may base their opinion that conscription is constitutional. In answer to a question from the Court, I said that the States may have had the right to conscript before the Constitution was adopted, but I do not believe they have it now in view of the Thirteenth Amendment, but that that right was never given to the National Government and that even the States had not that right ~~to~~ ^{now}. The Government tried to justify the fact that under the power to call forth the militia but under the power to make an army. They had a citation in their brief quoting Abraham Lincoln in which he said that drafting was a legislative privilege.

I would be glad to have an expression of your opinion in reference to this Amendment and act. It certainly was not intended to give jurisdiction to the National Government to draft.

I regret very much that you were not able to attend the Court. I am, with very best regards,
Sincerely,
Harry Weinberger

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The Emma Goldman Papers

[Agent Report] In re: Meeting held for Benefit of Alex Berkman at the West Side Auditorium, Chicago, 1917 Dec. 15 / H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice]. — 3 p. ; 28 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Clabaugh reports on a meeting celebrating Berkman's release from conspiracy charges in the Mooney case. Ben Reitman and William Nathanson spoke.

15446

REPORT MADE BY: H. G. Clabaugh	PLACE WHERE MADE: Chicago, Ill.	DATE WHEN MADE: Dec. 15, 1917	PERIOD FOR WHICH MADE: Dec. 14, 1917
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IN RE: Meeting held for Benefit of Alex Berkman at the West Side Auditorium.

RECEIVED
DEC. 22 1917
Bureau of Investigation
DEPARTMENT OF JUSTICE

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.

At Chicago.

Meeting held for the benefit of Alex Berkman at the West Side Auditorium, November 21st, 1917, at 8 P.M.

Billow acted as chairman. He said, "This meeting is held to celebrate the release of Alex Berkman on the charges of conspiracy in setting of the bomb July 20th, 1916, in San Francisco, at the time of the Preparedness Parade. He then introduced Ben Reitman as the next speaker. Ben Reitman said. "The release of Berkman on the San Francisco indictment in my mind was one of the greatest victories that labor has accomplished. About that time I was in San Francisco and I know that Berkman wasn't implicated in the setting off the bomb. The fact is that a man who is in the Radical or Revolutionary movement would not have set off a bomb at the time of the Preparedness Parade in San Francisco, for he would have known that public sentiment would have been against him. If the District Attorney of San Francisco had Berkman indicted right after the explosion of the bomb, he would have been hung without a doubt. But he did not have him indicted until he fell down on Mrs. Mooney case. We all know that if Berkman would have gone to San Francisco he would have been hung. The reason that the Government has indicted the so-called leaders of the I.W.W.'s is that they have a system in this country that they have adopted from the French and English. I want to tell you right now that in every one of your locals they have stool pigeons. These stool pigeons may see or hear that you are getting some money maybe a dime or more. They turn in the report to their headquarters and

COPIES OF THIS REPORT FURNISHED TO:
CHICAGO OFFICE

PAGE 2

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The Emma Goldman Papers

[Agent Report] In re: Meeting held for Benefit of Alex Berkman at the West Side Auditorium, Chicago, 1917 Dec. 15 / H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice]. — 3 p. ; 28 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Clabaugh reports on a meeting celebrating Berkman's release from conspiracy charges in the Mooney case. Ben Reilman and William Nathanson spoke.

REPORT FORM NO. 1

H. G. Clabaugh, For Dec. 14, 1917.

In re: Meeting held for Benefit of Alex Berkman at the West Side Auditorium.

and say you received money from the German Government, and this is immediately acted upon by the higher up. When I was in New York a Government official came up to me and said, "I think you could help us out with these bomb plotters". I asked him how. He said, "You know the radical and revolutionary movement quite well." I told him as long as they throw innocent men in jail, I could do nothing for him. I'm not a Revolutionist now; I'm practicing medicine.

Wm. Nathaneon was the next speaker. He spoke in Yiddish. He said, "In New York when they had the meeting of Berkman release, the hall was over crowded, but here the Jews do not take any interest in the release of Berkman. He then spoke about a woman that was thrown in jail by the Czar during his reign. The police tortured her with burning cigarette. After that she was sent to Siberia. As soon as Kerensky started to rule, he released this woman from prison. She asked the Governor of this prison to release three other revolutioniste women. He refused to release them. So she send word to Kerensky and these women were then released from prison. The Governor was put in the same prison where the women were before and the Czar was sent to Siberia. He then spoke about the radical newspaper, "The Masses", that was suppressed by the Government and said, "They may throw us in jail and hit us in the face, but sometime we will be released of all this." He then announced that a moving picture of "The Frame-up System" in five parts will be shown at the Bersl School, Douglas Blvd. and Lawndale Ave. on Nov. 22nd, 23rd, and 24th, 1917.

A collection was taken up and \$28.00 was collected. About 100 people were present.

3

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110

The Emma Goldman Papers

[Agent Report] In re: Meeting held for Benefit of Alex Berkman at the West Side Auditorium, Chicago, 1917 Dec. 15 / H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice]. — 3 p. ; 28 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Clabaugh reports on a meeting celebrating Berkman's release from conspiracy charges in the Mooney case. Ben Reitman and William Nathanson spoke.

Report Form No. 2

H. G. Clabaugh, Dec. 14, 1917.

In re: Meeting held for Benefit of Alex Berkman at the West Side Auditorium.

Above information was received from confidential informant working in conjunction with this office.

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111

The Emma Goldman Papers

[Agent Report] In re: Suspicious Employees Frankford Arsenal, Philadelphia, 1917
Dec. 17 / Todd Daniel [Agent, Bureau of Investigation, Department of Justice]. —
3 p.; 29 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Agent Daniel suspects one employee at the Frankford Arsenal because he organized a petition drive to release Goldman and Berkman, although no one would sign it.
Notes: Light copy; portions illegible.

Summary Court Martials and one Deck Court Martial, and had been dishonorably discharged from the Navy. He stated that his Uncle Joseph was against him because he would not believe in his ideas as an Anarchist. Further, Cahill stated his Uncle had his picture in the Rotunda Gallery in Philadelphia, and that he had noted by the paper that Joseph Miller was arrested in a recent drug raid, and he believed it might be his uncle. He said Miller was a moral pervert and 38 years of age, small, thin man, with a slight moustache.

On questions Cahill in regard to George Berdio, he stated that one of this man was that he was pro-Russian, and that recently he had made lots of money in some mysterious manner, that recently for \$1,000.00 he bought a store which was located somewhere on Kensington Avenue. Cahill stated that one Meyer, who worked in the same shop with him at the Arsenal, was also suspicious of Berdio, and that he had made some remarks.

On being asked Fred Ott, he said that he heard this man on several occasions, and that he was a pro-Russian and wanted to go back to Germany if he could. He stated that Meyer could also identify the man as being a pro-Russian.

In regard to George Pfeiffer, he stated he was formerly a guard at the Arsenal, and had tried to get him (Cahill) to steal ammunition from the Arsenal. He understood that this man would try to get a job as guard at the Arsenal, and he believed that this should be prevented. He stated Pfeiffer told him he was in the Arsenal for some purpose. He described Pfeiffer as a crazy nut, and said he should be watched.

On being questioned him in regard to Stamps, mentioned in the memorandum, he said that Stamps was a great Anarchist and Socialist. He further said that Stamps had a son-in-law, by the name of Morris Dickstein, who is a dealer in barrels, and that about three years ago he would deliver barrels to the Arsenal and often to taking care of the Arsenal. He stated that Stamps was a pro-Russian, and that he was a great Anarchist and Socialist.

BEST COPY AVAILABLE

The Emma Goldman Papers

[Agent Report] In re: Suspicious Employees Frankford Arsenal, Philadelphia, 1917
Dec. 17 / Todd Daniel [Agent, Bureau of Investigation, Department of Justice]. —
3 p. ; 29 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Agent Daniel suspects one employee at the Frankford Arsenal because he organized a petition drive to release Goldman and Berkman, although no one would sign it.

Notes: Light copy; portions illegible.

... steal from the Arsenal. He said that Dickstein got 6 months
for stealing from a Morocco factory nearby the Arsenal.

In regard to George Keffke, mentioned in the memorandum, he
had no particular information, but stated that he owned a saloon at
164 Morris Street, and knew that a pro-German element congregated
there.

In conclusion, Cahill stated that there was a German, named
Christ, in the ill shop, who was great for getting up petitions; said
he got up a petition to send to Washington to release Emma Goldman
and Morris Berkman, but that no one in the Arsenal would sign it;
that recently he got up a petition protesting against the coal short-
age, and had referred it to Colonel Montgomery, to be sent to Wash-
ington.

Cahill said that since his bad conduct discharge, he had
been endeavoring to live a better life, and he thought it was his
patriotic duty to go to Lieutenant Bond and give him the above
information for the sake of the Arsenal.

BEST COPY AVAILABLE

The Emma Goldman Papers

[Letter] 1917 Dec. 18, New York [to unknown recipient] / Emma Goldman.—
1 p.; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Goldman urges former subscribers to the *Mother Earth Bulletin* to renew their subscriptions. She explains their financial problems and discusses the status of her Supreme Court appeal.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

MOTHER EARTH

Monthly Magazine
Anarchist Thought

10c. a Copy
\$1.00 per Year

HEADQUARTERS FOR ANARCHIST LITERATURE

TELEPHONE SPRING 8711

MOTHER EARTH PUBLISHING ASSOCIATION

ROOM 204
226 LAFAYETTE STREET
NEW YORK

Dec. 18th, 1917

ANARCHISM

The philosophy of a new social order based on liberty unrestricted by man-made law; the theory that all forms of government rest on violence, and are therefore wrong and harmful, as well as unnecessary.

Dear Friend:-

Your subscription has expired. With the terrific cost of living, compelled to pay the expenses of the war, I can hardly hope that you will feel inclined to renew. Still, I must write you why it is urgent that you should not at this time give up the *Mother Earth Bulletin*.

As long as I was able to continue my lecture work, and *MOTHER EARTH* was permitted second class mailing privileges, we somehow managed to keep alive, although it was a bitter struggle. But now both my lectures and the second class mailing privileges have been stopped. I have a very limited time in which I may raise my voice, and even that is curtailed and limited to a few subjects. *MOTHER EARTH* can no longer be sent through the mails which makes the struggle for existence even more difficult.

I do so want to keep up this medium of communication with you while in Jefferson Prison. The only way it can be done is for each one to renew his subscription and send us an additional three cents per month to cover the cost of mailing the *BULLETIN*, as well as securing new subscribers and helping in any other way. We can not, as in the past, offer many premiums, but with your subscription we will be glad to send a copy of the *Speeches* by Alexander Berkman and myself at our trial. delivered/

Our appeal has been very ably argued by Harry Weinberger, who since our arrest has been both friend and legal adviser. The decision is not likely to be given before the early part of the year. After that we may still remain at large for several weeks; at least we have been assured that we can count on being free until February 1st.

With that in view I have decided to go on a short tour, partly to see my friends once more, and partly to enlighten the American public as to who the Bolsheviki really are and what their example will mean to the world. I shall only be able to visit a few cities between New York and Denver.

Cordially,

Emma Goldman

The Emma Goldman Papers

[Letter] 1917 Dec. 18, New York [to unknown recipient] / Emma Goldman.—
1 p.; 34 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Goldman asks for contributions to a costume ball and bazaar to raise money for the Mooney defense. She announces a short tour in January.

Notes: Enclosed with 810128006.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

MOTHER EARTH

Monthly Magazine
of
Anarchist Thought
10c. a Copy
\$1.00 per Year

HEADQUARTERS FOR ANARCHIST LITERATURE

MOTHER EARTH PUBLISHING ASSOCIATION

ROOM 204
226 LAFAYETTE STREET
NEW YORK

TELEPHONE SPRING 8711

ANARCHISM

The philosophy of a
new social order based
on liberty unrestricted
by man-made law; the
theory that all forms
of government rest
on violence, and are
therefore wrong and
harmful, as well as
unnecessary

Dec. 18th. 1917

Dear Friend:-

Our appeal has been very ably argued by Harry Weinberger, who since your arrest has been both our friend and legal adviser. The decision is not likely to be given before the early part of the new year. After that we may still remain at large several weeks. At least we have been assured that we can count on being free until February 1st.

With that in view I have decided to go on a short tour partly to see my friends once more and partly to enlighten the American public as to who the Boylsheviks really are and what their example will mean to the world. I shall only be able to visit a few cities between New York and Denver.

The notorious San Francisco frameup is crumbling to pieces. Confession follows confession, unmasking the infamous conspiracy of the Law and Order gang. The back of the prosecution is broken, but the fight is not yet won. Although Alexander Berkman has been released and Israel Weinberg acquitted, the work must go on until Tom Mooney, Billings and the other labor prisoners are rescued.

I have so often asked for your help that I am almost ashamed to do it again. But this time it is not for ourselves but for the San Francisco defense. The New York council of the San Francisco Defense has arranged an international Costume Ball and Bazaar, and we are very anxious to help make the affair a great success. We are therefore asking all our friends to contribute for this purpose. Send us some gift to make the Bazaar truly unique and effective. Send any article you can. If you can make it yourself, it will be doubly appreciated.

Fraternally,

Emma Goldman

The Emma Goldman Papers

[Letter] 1917 Dec. 18 [New York to unknown recipient] / Emma Goldman.—

1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Notes: Copy of 900507010.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

December 18, 1917

Dear Friend:-

Our appeal has been very ably argued by Harry Weinberger, who since our arrest has been both our friend and legal adviser. The decision is not likely to be given before the early part of the new year. After that we may still be at large for several weeks. At least we have been assured that we can count on being free until February 1st.

The brief prepared by Mr. Weinberger for the U. S. Supreme Court is a masterly presentation of the questions at issue. It contains a thorough analysis of the various legal phases, but what appeals most to me is the broad human view taken by Mr. Weinberger in his analysis of the social values and the fine vision that is the keynote of his argument.

A small number of copies of the brief are on hand. They will be of great interest to our readers and will prove a valuable addition to one's library. The brief is sold at cost price (50 cents the copy) to help defray the expenses of printing.

With the month of January at my disposal, I have decided to go on a short tour, partly to see my friends once more and partly to enlighten the American public as to who the Boylsheviki really are and what their example will mean to the world. I shall only be able to visit a few cities between New York and Denver. I open up in Chicago on January 4th for one week. Announcement cards will be sent to our subscribers. I expect to be in St Louis on January 15th and 16th; in Minneapolis the 20th, for two weeks; in Denver for one week. If the Court decision is not rendered by that time, I plan to go to the Coast. In any event, I hope to see you before going back to Jefferson Prison.

May the new year rid the world of the horrors of war and bring the peoples of the earth together in true human kinship.

Faithfully,

BS&AU
12646
f

Emma Goldman

The Emma Goldman Papers

[Letter] 1917 Dec. 18, New York [to unknown recipient] / Emma Goldman. — 1 p.; 25 × 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Goldman announces the schedule of her January 1918 speaking tour. She offers copies of Harry Weinberger's brief in her Supreme Court appeal for sale.

Notes: For copy, see 810128003.

MOTHER EARTH
Monthly Magazine
of
Anarchist Thought
Vol. 6 Copy
\$1.00 per Year

HEADQUARTERS FOR ANARCHIST LITERATURE

THE HOME SPRING 0711

MOTHER EARTH PUBLISHING ASSOCIATION

Room 204
226 LAFAYETTE STREET
NEW YORK

ANARCHISM

The philosophy of a new social order based on liberty unrestricted by man-made law; the theory that all forms of government rest on violence, and are therefore wrong and harmful, as well as unnecessary.

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May the new year rid the world of the horrors of war and bring the peoples of the earth together in true human kinship.

Faithfully,

Emma Goldman

BS4A7
12646
2

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118

The Emma Goldman Papers

[Letter] 1917 Dec. 18 [Washington, D.C. to] Francis G. Caffey, United States Attorney [Department of Justice], New York / J[ohn] W. Davis, Solicitor General [Department of Justice]. — 1 p. ; 32 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Davis promises to send Caffey more copies of his brief in the Selective Draft cases when more copies are printed.

Notes: Reply to 810113269. For brief mentioned, see 871221000.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 1)

SG-WJH-LJB

Dec. 18, 1917.

186233-13-73

DEC 19 1917

Francis G. Caffey, Esq.,
United States Attorney,
New York, N. Y.

Sir:

I am in receipt of your letter of the 14th, requesting ten copies of the government's brief in the Selective Draft Law Cases. At the present time our supply is exhausted, but in the course of a day or so additional copies are expected, at which time the ten copies will be sent you.

Respectfully, Jno. W. Davis
(Signed)

Solicitor General.

S

BEST COPY AVAILABLE

The Emma Goldman Papers

[Letter] 1917 Dec. 19, New York [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 23 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

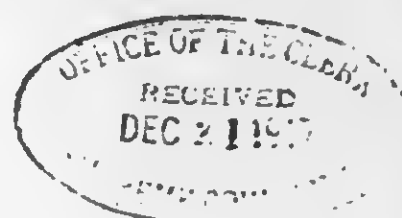
Summary: Weinberger returns borrowed copies of his brief to the Supreme Court clerk.

Notes: For enclosure, see 871211000. For reply, see 850712479.

HARRY WEINBERGER
COUNSELLOR AT LAW
361 BROADWAY, NEW YORK
TELEPHONE CONVENTS

December 19th, 1917

James D. Maher, Esq.,
Clerk, United States Supreme Court,
Washington, D.C.



Dear Sir:-

As someone in my office asked you for two
copies of my brief, I am returning you under separate
cover, ✓ four copies of my brief.

Thanking you for your courtesies, I am

Respectfully yours,

Harry Weinberger

Recd

The Emma Goldman Papers

810128006

[Letter] 191[7] Dec. 20, New York [to William H. Lamar] Solicitor, Post Office Department, [Washington, D.C.] / T[homas] G. Patten, Postmaster [Post Office Department].— 1 p.; 34 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Patten asks Lamar what to do with sealed envelopes believed to contain the December issue of the *Mother Earth Bulletin* and a letter from Goldman.

Notes: For enclosure, see 810128145. Enclosed with 810128005. For follow-up, see 810128072. Typed date of 1918 is incorrect.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

C O P Y

OFFICE OF THE POSTMASTER

United States Post Office

NEW YORK, NEW YORK

2 Encls.

December 20, 1918

Solicitor,

Post Office Department.

In connection with previous correspondence concerning "Mother Earth Bulletin", published and edited by Emma Goldman, I have to report that about 325 sealed envelopes like the accompanying specimens were deposited for mailing at Station B of this office, 450 at Station A and 81 at Station D. The envelopes bear on the outside the card "Room 204, 226 Lafayette Street, New York, N. Y.", which is the address of the publication office and those which are open contain a copy of "Mother Earth Bulletin" December 1917, Vol. 1, No. 3, a communication bearing the name of Emma Goldman as the sender and a complimentary ticket for a ball to be held February 17, 1918.

It is believed that the balance of these envelopes contain similar matter and the mail will be held for advice as to the disposition thereof in accordance with your instructions.

T. G. PATTEN

Postmaster

Per (Signed) Thos. F. Murphy

Assistant Postmaster

M-jj

(h)

The Emma Goldman Papers

[Memorandum] 1917 Dec. 20, New York [to] R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department], Washington, D.C. / Nicholas Biddle, Military Intelligence [Division, War Department]. — 1 p. ; 26 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Biddle sends Van Deman a report on the Guillotine Club.

Notes: Reply to 870810025.

OFFICE OF
MILITARY INTELLIGENCE
ROOM NO. 806
302 BROADWAY
NEW YORK CITY

DEC 22 1917
10110-524
WAR DEPARTMENT

December 20, 1917.

FROM: Major Nicholas Biddle,
TO: Colonel R. H. Van Deman, Chief, Military Intelligence Section,
Washington, D. C.
SUBJECT: Emma Goldman.

1. In reply to your letter of December 13th, #10110-524, with reference to the activities of Emma Goldman, I attach report of Inspector Brady on the subject.

2. We are continuing the investigation and will be pleased to follow any suggestion you care to make with reference to the data already submitted, in the future conduct of the case.

Nicholas Biddle
Major, A.S., S.O.R.C.

WIC/a

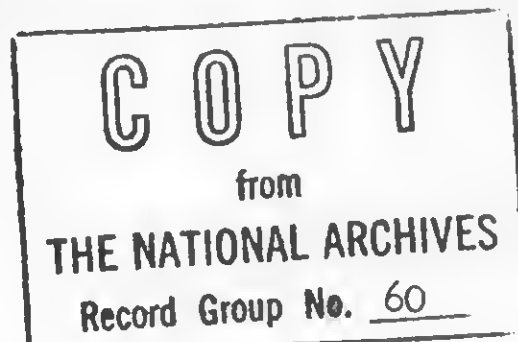
Enclosure-1

The Emma Goldman Papers

[Letter] 1917 Dec. 21, New York [to Thomas Watt Gregory] Attorney General
[Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney,
Department of Justice. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey passes on Judge Mayer's suggestion that the Department of Justice might want to publish his jury instructions in the Goldman and Berkman case.



Records of the Department of Justice
Central File Number 186233-13 (Section 1)

ADDRESS REPLY TO
"UNITED STATES ATTORNEY"
AND REFER TO
INITIALS AND NUMBER

H A C *H.A.C.*

15385

Department of Justice

United States Attorney's Office

New York

FM

Dec'r 21 1917

The Attorney General,
Washington, D. C.

S i r :

Judge Mayer has called my attention to the fact that in the bulletins issued by the Department relative to the interpretation of war statutes, there has not yet appeared the charge of the Court in the case of United States v. Emma Goldman and Alexander Berkman. Judge Mayer suggests that this was one of the early cases under the Act of May 18, 1917, and a most important one.

Thinking that this charge may have been overlooked by the Department, the Judge has requested me to call the same to your notice.

Respectfully,

Francis G. Caffey
U. S. Attorney.

JAN 7 1918

186233-13-77

DEC 22 AM 11

FILED

Full AB.

123

The Emma Goldman Papers

[Agent Report?] In re: Socialist Meeting—[W?]icker's Hall [Chicago? 19]17 Dec. 21
[fragment] / [Agent, Bureau of Investigation, Department of Justice]. —
1 p. ; 23 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: An unnamed agent suggests that the Bureau of Investigation use American Protective League members to pack Goldman's upcoming meeting.

Notes: Light copy; portions illegible.

NOTE: Admin. ...
...ing announced ...
SUGGESTION ...
... to pack ...
... meeting ...

BEST COPY AVAILABLE

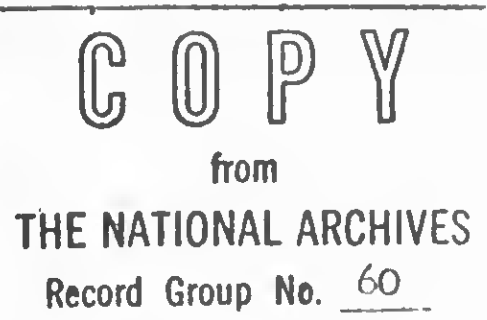
The Emma Goldman Papers

[Letter] 1917 Dec. 22, New York [to] William C. Fitts, Assistant Attorney General,
Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger asks Fitts to write a letter stating that the government does not object to Goldman's lectures. Reports of government opposition have made it difficult to rent lecture halls.

Notes: For related document, see 810113162.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

HARRY WEINBERGER
COUNSELOR AT LAW
261 BROADWAY, NEW YORK
TELEPHONE CONNECTION

December 22nd, 1917

Hon. William C. Fitts,
Assistant Attorney General,
Department of Justice,
Washington, D.C.

My dear Mr. Fitts:-

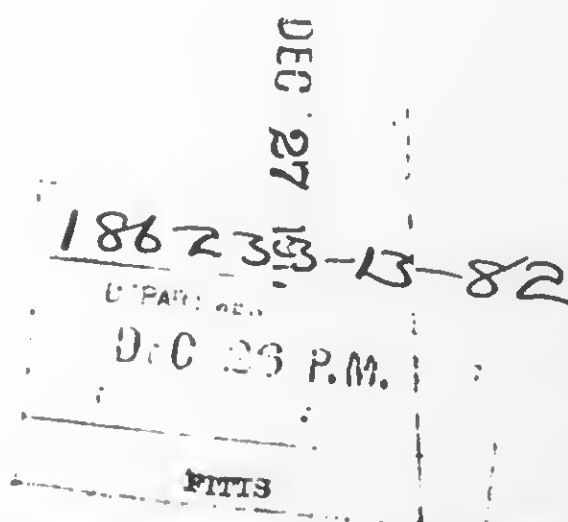
We are continually obtaining reports where lecture dates are attempted to be made, that the United States Government objects to Emma Goldman and Alexander Berkman talking, pending the appeal of their case.

Could you not write me along this line and thus state that the United States has no objection to Emma Goldman delivering lectures or holding meetings which are not in violation of law.

Wishing you the compliments of the season, I am

Respectfully yours,

Harry Weinberger



W.C. Fitts

The Emma Goldman Papers

[Letter] 1917 Dec. 22, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: The Supreme Court clerk acknowledges receipt of extra copies of Weinberger's brief in Goldman's appeal.

Notes: Reply to 810206022.

OFFICE OF THE CLERK,
SUPREME COURT OF THE UNITED STATES.
WASHINGTON, D.C.

December 22, 1917.

Harry Weinberger, Esq.,
New York City.

Dear Sir:-

Your letter of the 19th instant and four additional copies of your brief in the case of Goldman et al. v. The United States, No. 702, October Term, 1917, duly received, and I thank you for your kindness in the matter.

Yours truly,

JAMES D. MAHER, Clerk.

By *W.A.S.* Ass't.

TFD.

The Emma Goldman Papers

[Letter] 1917 Dec. 22, New York [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 23 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

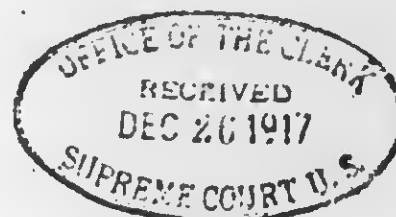
Summary: Weinberger asks the Supreme Court clerk about the timing of his motion to file a supplemental brief.

Notes: For reply, see 810206024 and 850712481.

HARRY WEINBERGER
COUNSELLOR AT LAW
261 BROADWAY, NEW YORK
TELEPHONE CONNECTION

December 22nd, 1917

702
26169
Clerk, United States Supreme Court,
Washington,
D. C.



Dear Sir:-

Will you kindly inform me as to when the Court meets again and when it will take its final recess.

I desire in the case of Goldman-Berkman against the United States to make a motion for leave to file a supplemental brief. How many days notice must I give and what date can I bring it on for inasmuch as I understand that the Court will shortly recess?

Thanking you for an early reply, I am

Yours very truly,

Harry Weinberger

The Emma Goldman Papers

[Letter] 1917 Dec. 22 [New York to] Thomas E. Watson, Thomson, Ga. / [Harry Weinberger]. — 2 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger explains his strategic decision to file a supplemental brief in Goldman's appeal, arguing the irrelevance of the Fourteenth Amendment. He praises Watson as an inspiration to him.

Notes: Broken type; light copy; portions illegible.

December 22nd, 1917

Thomas E. Watson, Esq.,
The son,
Georgia.

My dear Mr. Watson:-

I have been doing some work on the Fourteenth Amendment and it seems to me that it absolutely has nothing to do with ordering the removal of the United States and it has been decided by the Courts.

I am going to try to win a motion for leave to file a supplemental brief. I am writing the Court to-day to find out when the Court will meet next and when I can make a motion to file a supplemental brief. I want, if possible, to head off the Court before its decision on that point, especially in view of the fact that the Government nor anyone else has attempted to maintain it on that ground.

I will write you a longer letter when I get home as I am about to catch a train for Richmond for a few days needed rest.

As I telegraphed you in reference to fees for argument, I leave the matter to you, though I do not feel there is anything there.

It is surprising that you should have just run across that letter of mine written one year ago, as I have been one of your closest readers for about the past fifteen years. It is a matter of fact, your name is the only one that I have found up there that came to this thing. I have been reading the magazine everything except your writings.

As I have been for a while in the prison I have seen a good deal of the Black Magazine and I have often said that you have held high the torch of Liberty and Justice.

-2-

BEST COPY AVAILABLE

The Emma Goldman Papers

[Letter] 1917 Dec. 22 [New York to] Thomas E. Watson, Thomson, Ga. / [Harry Weinberger]. — 2 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger explains his strategic decision to file a supplemental brief in Goldman's appeal, arguing the irrelevance of the Fourteenth Amendment. He praises Watson as an inspiration to him.

Notes: Broken type; light copy; portions illegible.

. 2. - 2. 2. 2.

Wishing you the compliments of the
season; I am

Sincerely,

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The Emma Goldman Papers

[Telegram] 1917 Dec. 24, Lakewood, N.J. [to] Ja[me]s D. Maher [Clerk] U[nited] S[tates] Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 14 × 17 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 267.
Summary: Weinberger asks the Supreme Court clerk to wire him the Court's holiday schedule.
Notes: For reply, see 810206024.

Form 1204

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	DL
Night Message	NM
Night Letter	NL

If none of these three symbols appear after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	DL
Night Message	NM
Night Letter	NL

If none of these three symbols appear after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

WESTERN UNION
TELEGRAM

JOHN COMB CARLTON, PRESIDENT GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

RECEIVED AT
4 PM 1917
LAKWOOD NJ 12N DEC 24 1917
HON JAS D MAHER,
US SUPREME COURT, WASHINGTON DC.
WIRE COLLECT WHEN SUPREME COURT TAKES RECESS AND WHEN RECONVENES.
HARRY W EINBERGER
113P

The Emma Goldman Papers

[Letter, 191]7 Dec. 24 [Washington, D.C. to] Harry Weinberger, Lakewood, N.J. / James D. Maher, Clerk [United States Supreme Court]. — 1 p. ; 11 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court clerk informs Weinberger that the Court is in recess until January 2, 1918.

Notes: Light copy; barely legible. Reply to 810206026.

Dec. 24 '17
 Harry Weinberger
 Lakewood, N.J.
 Court now in recess & will reconvene
 tomorrow, January 2, 1918.
 James D. Maher
 Clerk

BEST COPY AVAILABLE

The Emma Goldman Papers

[Telegram] 1917 Dec. 24, New York [to Ralph H. Van Deman] Chief, Military Intelligence [Division, War Department], Washington, D.C. / Marston [Military Intelligence Division, War Department]. — 1 p. ; 16 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Marston notifies Van Deman of Goldman's plot to organize the simultaneous assassination of public officials. The organization is called The Guillotine.

Notes: For related document, see 800519031.

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nite
Night Letter	NL
If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.	

WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION

DEC 27

10110-524

1917

WASH DEPARTMENT

RECEIVED AT

New York City.

December 24, 1917.

Recd December 25, 11:00 a. m.

CODE

Chief, Military Intelligence Section,
War College, Washington, D. C.

Have obtained following information concerning Emma Goldman, who has assisted in organizing and is now organizing committees of five throughout the whole country for the purpose of killing President of the United States and district attorneys and prominent officials; and the day and hour will be designated by one known as Louis Weitzenkorn and a Miss Winner, both of New York, who are active heads of an organization known as "The Guillotine".

Weitzenkorn was a former associate editor of THE NEW YORK CALL.

MARSTON

JECK

REC'D W. C. D. O. C. S. DEC 25 1917

BEST COPY AVAILABLE

The Emma Goldman Papers

[Letter] 1917 Dec. 26, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: The Supreme Court clerk tells Weinberger when and how to file his motion to file a supplemental brief in Goldman's appeal.

Notes: Reply to 810206025.

OFFICE OF THE CLERK,
 Supreme Court of the United States,
 Washington, D.C.

December 26, 1917.

Harry Weinberger, Esq.,

New York City.

Dear Sir:-

Replying to your letter of the 22d instant, I beg to say that the court has taken a recess from the 21st instant to the 2d of January. A motion for leave to file supplemental brief in the case of Goldman and Berkman v. The United States, No. 702, October Term, 1917, cannot be submitted to the court until Wednesday, January 2d. You should serve notice on the Solicitor General of your intention to make such motion, with a copy of your brief, at once.

Yours truly,

JAMES D. MAHER, Clerk.

By  Ass't.

TFD.

The Emma Goldman Papers

[Letter] 1917 Dec. 26, Washington, D.C. [to] Harry Weinberger, New York / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 29 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Davis sends Weinberger copies of his brief in Goldman's appeal and asks for extra copies of Weinberger's brief.

Notes: For enclosure, see 871221000. Reply to 810113274. For reply, see 810113312.

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE. SG-WJH-LJB
WASHINGTON, D. C.

186233-

Dec. 26, 1917.

Harry Weinberger, Esq.,
261 Broadway,
New York, N. Y.

Sir:

In accordance with the request contained in your letter of the 15th, I am having sent to you today, under another cover, ten copies of the brief for the government in the Selective Draft Law Cases. The Department will be glad to receive five or six additional copies of your brief.

Respectfully,

John W. Davis
Solicitor General.

The Emma Goldman Papers

[Letter] 1917 Dec. 27, Washington [D.C. to] R[alph] H. Van Deman, Chief, Military Intelligence [Division] War Department, Washington, D.C. / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department. — 1 p. ; 28 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: McCauley forwards a report on Pacific Coast I.W.W. activities to the head of Military Intelligence.

Notes: For enclosures, see 850205029 and 810225013.

CONFIDENTIAL

NAVY DEPARTMENT
OFFICE OF NAVAL INTELLIGENCE
WASHINGTON

direct reference No. 20969-11
WAR COLLEGE DIVISION
LCC:CHG
NAVY
1917
WAR DEPARTMENT

December 27, 1917.

My dear Colonel Van Deman:

I enclose herewith copies of reports
in regard to I. W. W. activities and other allied
subjects recently received by this Office from the
Branch Office of Naval Intelligence in San Francisco.

Copies of these reports have been sent
to the Department of Justice.

Very truly yours,

E. McCauley, Jr.

Commander, U. S. N.,

Assistant Director of Naval Intelligence.

Lt. Colonel R. H. Van Deman, U. S. A.,
Chief, Military Intelligence Section,
War Department,
Washington, D. C.

The Emma Goldman Papers

[Agent Report In re: Russian Socialists in New York] 1917 Dec. 27-28 / [Agent] 0-99
[Military Intelligence Division? War Department?]. — 2 p.; 35 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Undercover agent 0-99 attends meetings of the Russian branch of the Socialist Party in New York and summarizes one lecture on the Russian Revolution and the European war. He notes that Goldman is holding fewer meetings because of police surveillance.

Thursday Dec. 27th, 1917.

Called 257 E. 10th, Street, they had a meeting in progress, but of no importance, so I went to 33-East-2nd Avenue 1st Socialist part of the Russian Branch and got acquainted with few persons, talked with a man from Russia played dominoes with him, and after a while it went so far that I had to play the Piano too, while they were singing their Revolutionary Songs. the crowd there appreciated the music very much, and made me play some more, much against my will. Through my friend the stranger I found out that Emma Goldman had her meetings once in a while around this neighborhood, but not lately because the Police is keeping an Eye on her, but more uptown. This Branch believes absolutely in the Bolshewiki's Administration and their movements and are hoping that they may win. So they invited me to come frequently to the meetings which is mostly in the evenings at 8 p.m.

Friday 28th, 1917.

Attended a lecture given by Mr. Menshok (Chairman Mr. Bogdanof.) His two hour lecture could not be translated because it is far into the Extrem*Socialist character those remarks I put down that concerned the U.S.A. President Wilson did not accept the Bolshewiki Government but on the other hand, through a third party he submits. U.S.A. send \$6,000 to the American Red Cross in Russia under the direction of Mr. Hamilton in charge in Petrograd, the Red Cross did not receive this money but it went to support the Kornilof gang to support the counter Revolution via Bolshewiki. the U.S.A. tried to make Russia as it is in here but failed. In England they arrested two Revolutionists for re-printing the peace propaganda, but it was of no use so they are freed. So are they here speaking about the Peace here and Peace there but they don't know how to start, instead to start from the beginning they are starting from the End. But We Are Against War and we will fight but in doing so we must be organized in a strong body and fight I know also that peace will be in January perhaps in March even if it will take six months but it will be there. The Eye of the world is directed upon us, and it is up to us now not to sit with our hands folded but to act. again don't believe those American papers they are the yellow press.

BEST COPY AVAILABLE

The Emma Goldman Papers

[Agent Report In re: Russian Socialists in New York] 1917 Dec. 27-28 / [Agent] 0-99
[Military Intelligence Division? War Department?]. — 2 p. ; 35 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Undercover agent 0-99 attends meetings of the Russian branch of the Socialist Party in New York and summarizes one lecture on the Russian Revolution and the European war. He notes that Goldman is holding fewer meetings because of police surveillance.

OFFICE CHIEF OF STAFF
COLLEGE DIVISION

-2-

Take the case of the Russian ship that came to this country and it proved all a lie and lies, after they were indentified of not having the Gold with them to support the I.W.W. ent eot. The next day the Story was still larger the yesterday just to make the thing interesting for the public they will write anything. But as for TROTZKY I was lucky and had the privilige to be near h when he departed from this Contry going to Russia, his last words were I AM GOING TO RUSSIA I WILL NOT FEAR BUT WILL GO STRAIGHT AHEAD AND NOT TURN TO LEFT NOR RIGHT AND IF IT WILL BE that I should loose my life I will do so for the cause for which I am fighting. So as you see he is there I never thought that he is a man of such a determination but he is there and will be THERE (Applause) the Hall was crowdet about 500 people were there, educated uneducated, clean and dirty but they were there.

0-99.

BEST COPY AVAILABLE

137

The Emma Goldman Papers

[Letter] 1917 Dec. 28, Washington [D.C. to] R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department], Washington, D.C. / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department. — 1 p. ; 29 x 21 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 165.
 Summary: McCauley forwards a report on Goldman's activities to the chief of Military Intelligence.
 Notes: For enclosure, see 800519028 and possibly 850205000.

CONFIDENTIAL

NAVY DEPARTMENT
 OFFICE OF NAVAL INTELLIGENCE
 WASHINGTON

In reply refer to No. 8
 OFFICE CHIEF OF STAFF
 WAR COLLECTOR DIVISION

LCC:LEE

JAN 9 1918
 WAR DEPARTMENT

December 28, 1917.

My dear Colonel Van Deman:-

There is enclosed herewith a report recently received from the Branch Office of Naval Intelligence in San Francisco, with regard to the activities of Emma Goldman and her associates.

A copy of the enclosed report has also been forwarded to the Department of Justice.

Yours very truly,

E. McCauley, Jr.

Commander, U. S. N.

Assistant Director of Naval Intelligence.

Lt. Col. R. H. Van Deman,
 Chief, Military Intelligence Section,
 Army War College.
 Washington, D. C.

REC'D W. D. C. JAN 1 1918

The Emma Goldman Papers

[Letter] 1917 Dec. 29, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 28 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger formally notifies Davis that he will move to file a supplemental brief in Goldman's appeal on January 2, 1918. He promises to send Davis a copy right away.

Notes: For reply, see 850712214. For motion mentioned, see 850806212.

HARRY WEINBERGER
COUNSELOR AT LAW
201 BROADWAY, NEW YORK
TELEPHONE CONNECTION

December 29th, 1917

Hon. John W. Davis,
Solicitor General,
Department of Justice,
Washington, D.C.

In re: Berkman-Goldman v. U.S.

Dear Sir:-

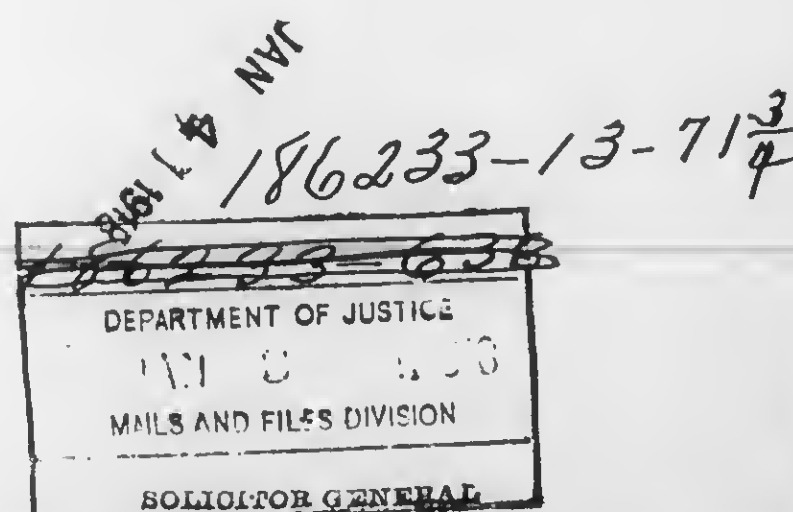
I send you herewith notice of motion to be made before the United States Supreme Court in the above entitled case, January 2nd, 1918.

I will send you typewritten copy of my proposed supplemental brief Sunday by Special Delivery and will deliver printed copies when I arrive in Washington.

I am

Respectfully yours,

Harry Weinberger



The Emma Goldman Papers

[Letter] 1917 Dec. 29, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger sends Davis six copies of his brief and explains that the government owes him twenty copies of its brief in Berkman and Goldman's appeal.

Notes: For enclosure, see 871211000. Reply to 850712211. For reply, see 850712215.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

HARRY WEINBERGER

COUNSELOR AT LAW

201 BROADWAY, NEW YORK

TELEPHONE CONNECTION

December 29th, 1917

Hon. John W. Davis,
Solicitor General,
Department of Justice,
Washington, D.C.

Dear Sir:-

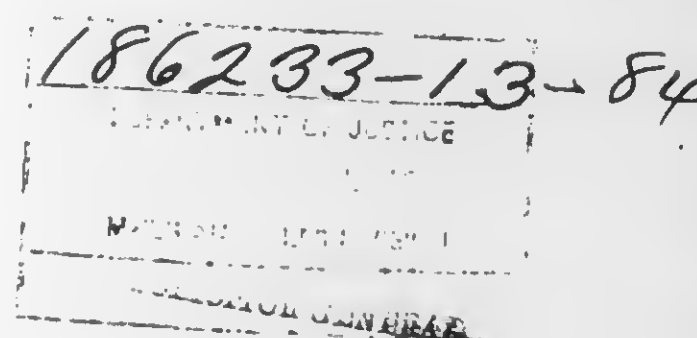
As per your request of December 26th, I am sending you under separate cover six additional copies of my brief. You have sent me ten copies of the Government's brief in the Selective Draft Law cases, while my arrangement with your office was that as I was to give you ten in each case, you were to give me ten, amounting to thirty in all, so that under the arrangement I should get twenty more copies.

I am

Respectfully yours,

Harry Weinberger

JAN 8 1918



The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice], Chicago / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 25 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Clabaugh to investigate reports that Goldman is plotting the simultaneous assassination of high government officials. He doubts the accuracy of the report.

Notes: Dark copy. For reply, see 880606029. For version of report mentioned, see 800519031.

ARB: JAS

December 29, 1917.

H.G. Clabaugh, Esq.,
Box 485,
Chicago, Ill.,

Dear Sir:

I enclose herewith for your information and careful attention copies of certain memoranda submitted by the Secretary of the Navy as coming from a confidential informant of the Naval Intelligence Service at San Francisco. This memoranda relates to the plans and activities of the I.W.W., Emma Goldman and other anarchists. It is of a character which seems to render its accuracy very improbable, but the statements are so important that they cannot be treated lightly and must be carefully run down. For this reason I have sent instructions to New York, Detroit, Cleveland, Cincinnati, St. Louis and San Francisco offices to run down all of the leads carefully.

Please give the matter, in so far as it relates to Chicago, your careful attention. Mr. Giffey is familiar with a radical organization in New York known as the "Guillotine", but his information does not indicate that it is anything of particular importance. No, however,

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice], Chicago / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 25 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Clabaugh to investigate reports that Goldman is plotting the simultaneous assassination of high government officials. He doubts the accuracy of the report.

Notes: Dark copy. For reply, see 880606029. For version of report mentioned, see 800519031.

H.G. Clabaugh, Esq.,
Chicago, Ill. #2.

is going to make immediate efforts to get at the bottom
of the matter.

Yours very truly,

Chief

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] C.S. Weakley [Agent in Charge? Bureau of Investigation, Department of Justice], Cincinnati, Ohio / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 24 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Weakley to investigate local radicals who may be involved in Goldman's alleged plot to simultaneously assassinate public officials and try to verify the report.

Notes: Dark copy. For version of report mentioned, see 800519031.

15446

ABB:JAS

December 29, 1917.

C.S. Weakley, Esq.,

Bx 760,

Cincinnati, Ohio.

Dear Sir:

The Secretary of the Navy has called the attention of the Attorney General to certain data reported by the Naval Intelligence Service as coming from a confidential informant from San Francisco. A great many activities not having any bearing on your territory are related and have been sent to other agents for attention.

Among the statements made, however, is one to the effect that Emma Goldman is organizing committees of five in all important cities to kill at a given hour the President, District Attorneys and prominent State Officials, that the hour and day will be named by Louis Weitzenkorn and Miss Winner of New York City. The organization is called the "Guillotine". Cincinnati is said to be the signal station for the middle west and secret meetings are now being held at Workmen's Hall, Walnut Street in your city. Rose, who I assume is some leader in this movement at Cincinnati has two active assistants named "Red" Doyle and Stafford. The date on

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The Emma Goldman Papers

880606022

[Letter] 1917 Dec. 29 [Washington, D.C. to] C.S. Weakley [Agent in Charge? Bureau of Investigation, Department of Justice], Cincinnati, Ohio / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 24 x 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Weakley to investigate local radicals who may be involved in Goldman's alleged plot to simultaneously assassinate public officials and try to verify the report.

Notes: Dark copy. For version of report mentioned, see 800519031.

C.S. Weakley, Esq.,
Cincinnati, Ohio. #1.

which the assassinations are to take place will be made known through certain code appearing in poems in the "New York Call".

Please give this matter immediate attention and advise me what, if anything, you can learn in support or contradiction of these statements.

Yours very truly,

Chief

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] E[dward] J. Brennan [Agent in Charge, Bureau of Investigation, Department of Justice], St. Louis, Mo. / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 24 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Brennan to investigate St. Louis radicals supposedly associated with Goldman's plot to assassinate public officials. He doubts the accuracy of the information.

Notes: Dark copy. For reply, see 810402040. For version of report mentioned, see 800519031.

15446
ABB: JAS

December 29, 1917.

E. J. Brennan, Esq.,

Box 603,

St. Louis, Mo.,

Dear Sir:

The Secretary of the Navy has laid before the Attorney General certain data coming from a confidential informant from the Naval Intelligence Service which deals with the activities of the I.W.O., Emma Goldman and other anarchists. This informant claims that Emma Goldman is organizing in all of the important cities of the country committees of five who at a given hour are to kill the President, District Attorneys and prominent officials. The hour and day will be named by Louis Weitsankorn and Miss Winter, both of New York City. The information as to the time is to be conveyed through certain code messages appearing in poems to be published in the "New York Call". The organization is known as the "Guillotine". Cincinnati is said to be the signal station for the middle west.

In St. Louis one of the members of this committee is named H. Tichenor, the ex-editor of a paper known as the "Rip Saw".

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] E[dward] J. Brennan [Agent in Charge, Bureau of Investigation, Department of Justice], St. Louis, Mo. / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 24 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Brennan to investigate St. Louis radicals supposedly associated with Goldman's plot to assassinate public officials. He doubts the accuracy of the information.

Notes: Dark copy. For reply, see 810402040. For version of report mentioned, see 800519031.

E. J. Brennan, Esq.,
St. Louis, Mo. #8.

Will you please make an immediate investigation for the purpose of determining whether these stories are accurate or not. The allegations are so important that they should be given special attention even though there is every indication that they are inaccurate.

The same informant states that H. Varney, local I.W.O. organizer who is also organizing the Peoples' Council of St. Louis is a very dangerous man and should be put under restraint, and that at a meeting of the I.W.O. organization recently he indulged in very seditious language and succeeded in securing twenty-two Russian Jews of conscription age as recruits for the organization.

Yours very truly,

Chief

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] W[illiam] M. Offley [Division Superintendent, Bureau of Investigation, Department of Justice], New York / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 25 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Offley to investigate Goldman's alleged Guillotine plot to assassinate government officials.

Notes: Dark copy. For reply, see 880606032. For version of report mentioned, see 800519031.

ABB:JAS

December 29, 1917.

W.M. Offley, Esq.,
Box 241,
New York, N.Y.,

Dear Sir:

I enclose herewith for your information copy of certain memoranda submitted to the Attorney General by the Secretary of the Navy, as coming from a confidential informant of the Naval Intelligence Service in respect to the activities of the I.W.O., Emma Goldman and other anarchists and an organization known as the "Guillotine". Will you please give special attention to all of these matters therein set forth which have any reference to your territory and make special report at the earliest practical time. This information, if accurate, is extremely important and should not be treated lightly simply because it seems probably untrue.

You will note specially the statement that Emma Goldman is organizing committees of five in all important cities to kill at a given hour prominent officials.

Yours very truly,

Chief

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] Don S. Rathbun [Agent in Charge, Bureau of Investigation, Department of Justice], San Francisco / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 25 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski directs Rathbun to confer with the head of naval intelligence in San Francisco to try to verify the accuracy of his report that Goldman is organizing people to assassinate government officials.

Notes: Dark copy. For report mentioned, see 800519031.

15446

ARB:JAS

December 29, 1917.

Don S. Rathbun, Esq.,

Box 374,

San Francisco, Cal.,

Dear Sir:

I enclose herewith for your information and careful attention copies of memoranda submitted by the Secretary of the Navy to the Attorney General as coming from a confidential informant of the Naval Intelligence Service of San Francisco. These memoranda relate to the plans and activities of the I.W.O., Emma Goldman and other anarchists. I telegraphed you instructions yesterday to confer with Van Antwerp of the Naval Intelligence Service, regarding this matter. While the data is of a character which casts grave suspicions on its accuracy, the statements are of such importance as to make it necessary to run them down carefully. The Naval Intelligence feel that they cannot make known the identity of this man, and while I believe it should be done, we are not insistent on this course for the present.

It is desired that you shall make every effort to verify or disprove the assertions made in these documents. We have sent to our New York, Chicago, Cincinnati, St. Louis, and Detroit offices various parts of this

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The Emma Goldman Papers

[Letter] 1917 Dec. 29 [Washington, D.C. to] Don S. Rathbun [Agent in Charge, Bureau of Investigation, Department of Justice], San Francisco / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 2 p. ; 25 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski directs Rathbun to confer with the head of naval intelligence in San Francisco to try to verify the accuracy of his report that Goldman is organizing people to assassinate government officials.

Notes: Dark copy. For report mentioned, see 800519031.

Don S. Rathbun, Esq.,
San Francisco, Cal. #2

memoranda for investigation. Please give this immediate attention and assign someone who will give it the benefit of his exclusive efforts until the matter is properly disposed of.

Yours very truly,

Chief

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The Emma Goldman Papers

[Confidential Files, 1917 Dec. 29 to 1919 April 23 (cover page)] / Department of Justice. — 2 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Notes: Dark copy. For enclosures, see 810113312 through 810113429.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

Department of Justice

MAIL AND LETTERS DIVISION

(MATERIAL MUST NOT BE REMOVED FROM OR ADDED TO THIS FILE)

File No. 186233-13

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IN FILE NO. 186233-13

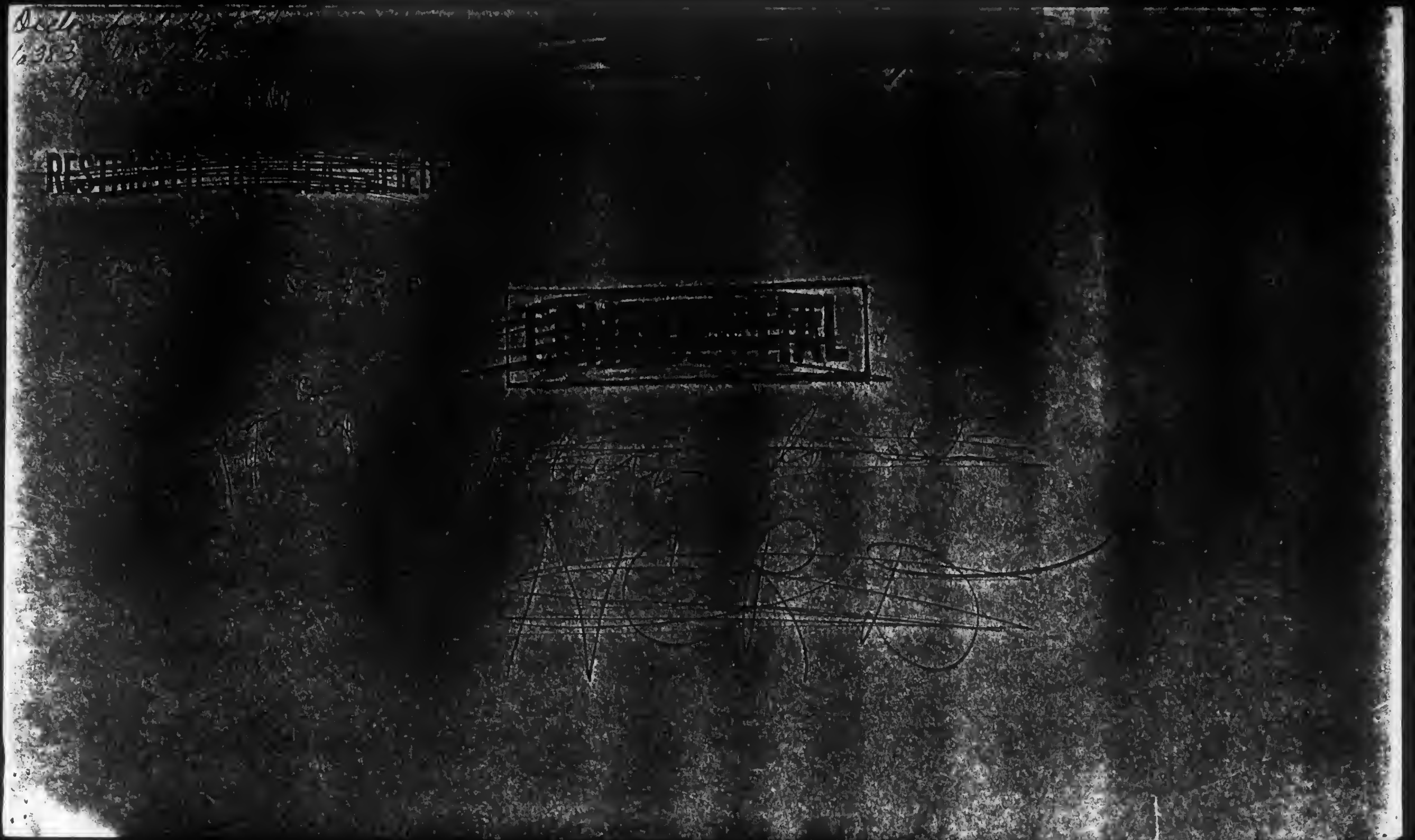
See also Nos. 190028

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The Emma Goldman Papers

[Confidential Files, 1917 Dec. 29 to 1919 April 23 (cover page)] / Department of Justice. — 2 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.
Notes: Dark copy. For enclosures, see 810113312 through 810113429.



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The Emma Goldman Papers

[Memorandum] 1917 Dec. 31, New York [to Ralph H. Van Deman] Chief, Military Intelligence [Division, War Department], Washington [D.C.] / Nicholas Biddle, Military Intelligence [Division, War Department]. — 2 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Major Biddle reports that the information on Goldman's Guillotine Plot to kill the President came from the Office of Naval Intelligence. He doubts there will be any violence until after the I.W.W. trial, if then.

Notes: Broken type; light copy. For related documents, see 870810028, 850205025, and 810402045.

ACT WHERE MADE	DATE WHEN MADE	PERIOD FOR
UNDER INVESTIGATION		

CLH-4746.11.11.11
10095-171
4.
WAR DEPT.

OFFICE OF
MILITARY INTELLIGENCE
ROOM NO. 806
302 BROADWAY
NEW YORK CITY

December 31, 1917.

From Office of M. I. S., 302 Broadway, New York.
To Chief, Military Intelligence Section, Washington.
Subject Acts of Violence --- WGD 10095-171.

1: In regard to the information from Captain Houghton to Major Marston that a nation wide organized reign of incendiarism and sabotage is to be inaugurated between Christmas and New Years, Lieutenant Hay, of this office, spoke with Captain Houghton, who said that his information was reliable and that it came from the Westinghouse Co., having been obtained in Pittsburg. Captain Houghton said that he was working on several other lines with the Westinghouse people on various matters and did not wish to push them too far in disclosing their sources of information.

2: In regard to a telephone message from Major Marston, December 12nd, to the effect that Emma Goldman, Louis Weitzenkorn, and Winter were planning to kill the President and others, Lieutenant Hay called up Major Marston, who said that his source of information was entirely reliable but confidential, that it had been communicated to Colonel Van Deman and that if Major Biddle would call up Major Marston personally, Major Marston would disclose the source of his information.

3: The information evidently came from the Office of Naval Intelligence, as Lieutenant-Commander Eddy showed Lieutenant Hay a report in which was embodied substantially Major Marston's message. Commander Eddy said that he would be glad to furnish Major Biddle a complete copy of this report and of others bearing on the same subject.

4: I am inclined to believe that no concerted acts

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The Emma Goldman Papers

[Memorandum] 1917 Dec. 31, New York [to Ralph H. Van Deman] Chief, Military Intelligence [Division, War Department], Washington [D.C.] / Nicholas Biddle, Military Intelligence [Division, War Department]. — 2 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Major Biddle reports that the information on Goldman's Guillotine Plot to kill the President came from the Office of Naval Intelligence. He doubts there will be any violence until after the I.W.W. trial, if then.

Notes: Broken type; light copy. For related documents, see 870810028, 850205025, and 810402045.

-2-

Chief, Military Intelligence Section

Dec. 31, 1917.

of violence will be attempted until the end of the trial of the I. W. W.'s in Chicago, which is now taking place.

if at all -

Nicholas Biddle
Major, U. S. R.

CLH/ES

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The Emma Goldman Papers

[Memorandum in re: Guillotine Club, Washington, D.C., 1917? Dec.? 31? /
[Military Intelligence Division, War Department]. — 1 p.; 21 x 14 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Major Biddle reports that the rumor of Goldman's plot to kill the President may have started with a large private detective agency in New York. Biddle doubts if there will be any violence until after the I.W.W. trial.

Notes: Broken type; light copy. Enclosed with 810402044 and 810331087. Summarizes information contained in 870810030.

10110-524

J/W.

Major Biddle, December 31st, reports that Captain Haughton received his information concerning the "Reign of Terror", that was said ~~xxxxx~~ would be started some time between Christmas and New Years, from the Westinghouse Company in Pittsburg.

That the rumor as to the plan of Emma Goldman, Louis Weitzarkom and Wisner to kill the President, came from various sources, possibly originated with a large private detective agency in New York.

Biddle says that he doubts any widespread organized violence until after the I. W. W. trial in Chicago, if at all.

A. Organization (c) 1 and 2.

The Emma Goldman Papers

[Letter] 1917 Dec. 31, Washington, D.C. [to] Harry Weinberger, New York / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 29 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Davis acknowledges receipt of Weinberger's notice of motion to file a supplemental brief before the Supreme Court.

Notes: Reply to 810113180.



Office of the Solicitor General. SG-WJH-LJB
Washington, D.C.

Dec. 31, 1917.

186233-

Harry Weinberger, Esq.,
261 Broadway,
New York, N. Y.

Sir:

I am in receipt of your letter of the 29th, in relation to the case of Goldman & Berkman v. The United States, No. 702 on the docket of the Supreme Court, together with notice of motion to be made before the Supreme Court January 2nd, enclosed therein.

Respectfully,

John W. Davis
Solicitor General.

The Emma Goldman Papers

Political Defense Fund, October 16th to December 31st 1917 / [Mother Earth Publishing Ass'n.?].— 1 p. ; 36 x 21 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 28.
Summary: The Mother Earth Publishing Association prints an accounting of its Political Defense Fund.
Notes: Enclosed with 810128085, 870527002 and 870527004.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

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POLITICAL DEFENSE FUND

October 16th to December 31st 1917

RECEIPTS

Adler Theatre Benefit, \$219.88; United Mine Workers of America, Local 959, \$68.10; Collect Brownsville Meeting, \$98.86; Collect Forward Hall, \$68.86 and \$54.98; United Mine Workers No. 959, \$73.80; Collect Brownsville Meeting, \$92.00; Collect Brownsville Meeting, \$42.25; Collect Williamsburg Meeting, for Louise Oliverau, \$16.24; Collect Terrace Lyceum, \$21.45; Vasil Andryeff, \$20.00; Workmen's Circle Branch 97, \$13.00; Rose Cominsky, \$12.50; Agnes Ingles, \$12.50; Esther Garber, \$8.50; G. C. Mulselhegel, \$5.50; Otto Weik, \$6.50; Y. P. S. L., \$5.25; Anna Segaty, \$6.25; Abe Rosenberg, \$10.00; W. C. Br. 513, \$10.00; Ellen Kennan, \$10.00; S. Tiberi, \$9.50; Oliver Crooks, \$10.00; Collected by Belsky, \$10.35; L. Ostrowsky, \$10.00; W. C. Br. \$7.50; W. C. Br. 384, \$7.80; W. C. Br. 313, \$5.05.

CONTRIBUTIONS OF FIVE DOLLARS

Henry Hartung, W. C. Br. 11, W. C. Br. 2, M. C. Goldring, Isadore Bertason, Anna Levy, James Roman, W. C. Br. 112, W. S. & D. B. F. No. 91, W. C. Br. 207, W. C. Br. 29, W. C. Br. 38, Anarchist Red Cross, W. C. Br. 19, Ernest Schilling, M. Polsky, W. S. & D. B. F. No. 57, W. C. Br. 248, W. C. Br. 12, Wm. Kley, W. C. Br. 218, W. C. Br. 88, W. C. Br. 90, W. C. Br. 441, \$4.80; W. C. Br. 93, \$4.70; W. C. Br. 79, \$4.00; Isadore Becker, \$3.75; J. Abrams, per list, \$3.65; W. C. Br. 83, \$3.45; A. Wilbers, \$3.50; W. C. Br. 40, \$3.10; I. Katz, per list, \$3.70.

THREE DOLLAR CONTRIBUTIONS

Wm. Van der Hoff, Rose Baron, Chas. L. Wright, W. C. Br. 262, Esther Kamer, W. C. Br. 64, W. C. Br. 6, W. C. Br. 434, W. C. Br. 507, W. C. Br. 305, W. C. Br. 128, W. C. Br. 250, W. C. Br. 120, W. C. Br. 551, W. C. Br. 589, H. J. Van Huizen, W. C. Br. 337, N. O. Adams, Miss F. Ifeld, W. C. Br. 384, W. C. Br. 259, W. S. & D. B. F. No. 312, \$2.25; Paul Storm, per list, \$2.50; R. F. Pettigrew, \$2.64; W. S. & D. B. F. No. 233, \$2.50; Gus. Telch, \$2.10.

TWO DOLLAR CONTRIBUTIONS

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ONE DOLLAR CONTRIBUTIONS

Sara Mink, Clara Lodge, Joseph D'Angelo, H. J. Stuart, John Strabl, Eric Kittelson, I. W. W. Local No. 453, Von Doilewitz, Nelli Scotti, Sam Sivin, A. Adamschuck, L. D. Ceasar, Charles Tombrello, August A. Miller, Minna Lowensohn, W. C. Br. 110, W. C. Br. 94, W. C. Br. 214, Per J. Bluestone, Frank Mitchell, Jr., W. C. Br. 68, M. Maselli, W. C. Br. 565, W. C. Br. 217, W. C. Br. 326, W. C. Br. 601, W. C. Br. 70, W. C. Br. 54, W. C. Br. 80, W. C. Br. 65, W. C. Br. 271, W. C. Br. 549, W. C. Br. 121, W. C. Br. 531, W. C. Br. 531, Karl Schoepke, Mrs. Romello, W. C. Br. 431, W. C. Br. 170, W. S. & D. B. F. No. 48, W. C. Br. 295, W. C. Br. 264, W. C. Br. 554, W. C. Br. 53, W. C. Br. 341, W. C. Br. 529, W. C. Br. 305, W. C. Br. 402, W. C. Br. 478, W. C. Br. 362, W. C. Br. 69, W. C. Br. 240, W. C. Br. 361, W. C. Br. 413, W. C. Br. 488, W. C. Br. 570, W. C. Br. 382, W. C. Br. 257, W. S. & D. B. F. No. 326, W. C. Br. 298, W. C. Br. 573, W. C. Br. 7, W. C. Br. 8, John Perz, W. S. & D. B. F. No. 276, W. S. & D. B. F. No. 249, W. S. & D. B. F. No. 457, W. C. Br. 496, W. S. & D. B. F. No. 44, W. C. Br. 135, W. S. & D. B. F. No. 35, W. C. Br. 121, W. C. Br. 34, W. C. Br. 234, W. S. & D. B. F. No. 223, Frank Nelson, W. S. & D. B. F. No. 77, W. C. Br. 543, W. C. Br. 403, W. S. & D. B. F. No. 207, A Friend, W. C. Br. 35, W. C. Br. 489, W. C. Br. 289, W. C. Br. 539, W. C. Br. 446, W. S. & D. B. F. No. 220, W. S. & D. B. F. No. 49, W. C. Br. 576, Karl Herlitz, John Grossmann, W. S. & D. B. F. No. 62, E. B. Marsch, W. C. Br. 141, W. C. Br. 183, Gertrude Hunter, W. C. Br. 63, \$5.00; W. C. Br. 292, W. C. Br. 242, W. C. Br. 160, \$7.50; M. Sosinsky, \$5.00; W. C. Br. 432, \$5.00; Arbeiter Gesang Verein "Eidelveiss," \$95; W. S. & D. B. F. No. 311, \$5.00; Theo. L. Olson, \$5.00. Total \$1,280.06. Previously reported 7,189.14. \$8,469.20.

DISBURSEMENTS

To Harry Weinberger: On fee \$307.00. Printing of brief 500.00. Louis Kramer 5.00. Sacks & Steinfeld—Letterheads and envelopes 26.00. Graphic Press 11.00. Postage 55.05. Telegrams 2.07. Ads in the "Call" 24.00. Publicity, Songs and Ads 61.60. To prisoners in the Tombs 16.00. To Russian Group 18.00. Louise Oliverau's Appeal 132.25. Turned over to I. W. W. per Elizabeth Gurley Flynn, for trip to Chicago in re New York cases 150.00. For care of boys in Cook County Jail 20.00. Total \$1,297.97. Previously reported 7,188.83. \$8,486.80.

The Emma Goldman Papers

[Memorandum in re: Mother Earth Publishing Association, 1918?] / [Post Office Department].— 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: The Post Office Department cross-references its files on the Mother Earth Publishing Association.

46647

Anarchy on Trial
for further papers
re Mother Earth
Publishing Co see
file # 50205

All this in
re "Mother Earth"
or
books, pamphlets etc
put out by the Mother
Earth Publishing Association

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

The Emma Goldman Papers

[Memorandum in re:] Mother Earth [1918?] / [Post Office Department].—
1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: The Post Office Department cross-references its files on *Mother Earth*.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

File 46647.

Memorandum

Mother Earth

New York, N. Y.

For letter in re New York City publications having 2nd class.

privileges withdrawn see file 46648.

The Emma Goldman Papers

Propaganda by Cartoon and Essay / Military Intelligence Branch [War Department].
— p. 124-128 ; 22 cm. *In* Propaganda in its Military and Legal Aspects — [Washington,
D.C.?, 1918?].

Obtained from the United States National Archives. Institutional Location: Record Group 45.

Summary: The Military Intelligence Branch holds up tributes to Goldman and Berkman in *The Masses* as an example of interference with the war effort by cartoon and satire.

Notes: Four shots of six pages.

PROPAGANDA

IN ITS

MILITARY AND LEGAL ASPECTS

Military Intelligence Branch
Executive Division
General Staff
U. S. A.

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The Emma Goldman Papers

Propaganda by Cartoon and Essay / Military Intelligence Branch [War Department].
— p. 124-128 ; 22 cm. In Propaganda in its Military and Legal Aspects — [Washington, D.C.?, 1918?].

Obtained from the United States National Archives. Institutional Location: Record Group 45.

Summary: The Military Intelligence Branch holds up tributes to Goldman and Berkman in *The Masses* as an example of interference with the war effort by cartoon and satire.

Notes: Four shots of six pages.

124

Propaganda

increase of power both for good and evil, because of the enormous increase of facilities for communication and transport.

Everybody reads and writes, and the postal service is of vast proportions. The telephone, telegraph and cable systems bring the remotest ears within access of the whispers of gossip. The newspapers go into every home and make the whole world one neighborhood. By their generous use of the wire-service, long articles may be made to appear simultaneously at almost every breakfast table in the land.

Thus while scientific and mechanical progress goes on enlarging the scope of our daily life, and giving everything a cosmopolitan significance, at the same time they are making the world more and more one town. We are all neighbors, and at the mercy of one another's tongues.

It is in no sense a mere bit of rhetoric but an absolute fact that any diminution soever of the maximum power and enthusiasm of a nation at war has a direct and perilous military effect.

The person, therefore, who by any means keeps one soldier from the front or who mars the perfection of his efficiency has done exactly what the open enemy in the opposite trench does when he kills one of our soldiers. Indeed, he has done yet more, for he has left that enemy free to spend that bullet in the killing of another soldier.

In a country so large as ours, and so far removed from the seat of war, propaganda becomes almost the only weapon with a long enough reach to be effective. The extraordinary extent of the circulation of newspapers and magazines in America gives this weapon an unlimited range.

PROPAGANDA BY CARTOON AND ESSAY.

Though the vast majority of American writers and artists have devoted their abilities with great ardor to the cause of their country, there have been a few satirists who have been unable to respond to the crisis, and have preferred to devote their abilities to interfering with the success of the war.

A small group of these was concerned in the cooperative publication of a paper of small circulation called *The Masses*. The Postmaster of New York having finally forbidden the mails to the August, 1917, issue under the Espionage Act of June 15, 1917, an injunction was sought to restrain him.

By Dissension

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The Postmaster had fortified himself with an opinion from the Judge Advocate General of the Army, who stated that "the necessary effect of the issue of this August number would be to cause insubordination, disloyalty, mutiny, and refusal of duty in the naval and military forces of the United States, and that it would obstruct the recruiting and enlistment service of the United States."

The U. S. District Court for the Southern District of New York granted a temporary injunction on July 26, 1917. The Postmaster took an appeal and the U. S. Circuit Court of Appeals, Second Circuit, reversed the injunction.

The opinion handed down contains an important account of the methods and aims of this school of propagandists and their relation to the principle of the freedom of the press, the law and many precedents being freely quoted, and the Court holding that "The Espionage Act, in so far as it excludes from the mails certain matters declared to be unmailable, is constitutional."

From this decision, issued as Bulletin No. 7 by the Department of Justice, the following description of the objectionable matter is quoted:

"The objectionable matter was contained in the August issue, and consisted of certain articles. These were entitled 'A Question,' 'A Tribute,' 'Conscientious Objectors,' 'Friends of American Freedom.' Besides these articles there were four cartoons which were also objected to. These were entitled 'Liberty Bell,' 'Conscription,' 'Making the World Safe for Capitalism' and 'Congress and Big Business.'

"The article 'A Question' idealizes those who resist the conscription law and it represents them as heroic. In saying that the law violates sacred rights and is contrary to liberty and that those who refuse to submit to it are heroes it incites disobedience to the statute.

"The poem entitled 'A Tribute' represents as martyrs worthy of admiration two notorious persons who had just been convicted under an indictment charging them with conspiracy to induce persons not to register under the conscription act. It reads in part as follows:

"Emma Goldman and Alexander Berkman

"Are in prison tonight.

"But they have made themselves elemental forces.

"Like the water that climbs down the rocks,

"Like the wind in the leaves,

"Like the gentle night that holds us,

"They are working on our destinies;

"They are forging the love of the nations.

"The statement that these two individuals have made themselves elemental forces akin to the rocks and trees and rivers, under ordinary circumstances would be harmless, but coming at this particular time and after their conviction, the inference being that their greatness grows out of their offense and that

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The Emma Goldman Papers

Propaganda by Cartoon and Essay / Military Intelligence Branch [War Department].
— p. 124-128 ; 22 cm. In *Propaganda in its Military and Legal Aspects* — [Washington, D.C.?, 1918?].

Obtained from the United States National Archives. Institutional Location: Record Group 45.

Summary: The Military Intelligence Branch holds up tributes to Goldman and Berkman in *The Masses* as an example of interference with the war effort by cartoon and satire.

Notes: Four shots of six pages.

they are worthy of admiration and honor, is equivalent to saying that their unlawful conduct is worthy to be followed. The article, 'Conscientious Objectors,' refers to a number of letters written from English prisons by conscientious objectors. These letters are printed in the same issue of the magazine, and the article recommends those in this country who intend 'to stick it out to the end' (resist conscription to the end) to read thoroughly the letters.

The article, taken as a whole, may well be regarded as intended to encourage objectors to be as steadfast protesters against 'government tyranny' as their English comrades. In other words, it is an encouragement to disobey the law.

The Article 'Friends of American Freedom' is devoted to Alexander Berkman and Emma Goldman, already commented upon in this opinion as having been convicted of a conspiracy to induce persons not to register. The article pays them 'tribute of admiration for their courage and devotion.' There is an allusion to the fact that Berkman and Goldman had advocated in their paper, *Mother Earth*, that those liable to the military draft who do not believe in the war should refuse to register. The natural effect of it is to encourage those who have objections to war not to register as the conscription act requires. Admiration of conspirators convicted of the offense of seeking to defeat the operation of the conscription act is equivalent to an approval of their crime and an encouragement to others to disobey the law in like manner.

In considering the cartoons we may observe that political cartoons have long been used as a very effective means of political propaganda. They were so employed in France during the French Revolution and in England as early as the days of Walpole. In this country they were used during the Revolution, in the War of 1812, and in the Civil War. The brilliant cartoons of Nast satirizing the Tweed ring in the city of New York were conceded at the time to have exerted a powerful influence in the destruction of that corrupt combination. A cartoon may be a leading article. It has been described as 'a leading article transformed into a picture.' It can express ideas as lucidly and clearly as printed words, and there is no escape from legal responsibility because pictures rather than words are used.

In the cartoon entitled 'Liberty Bell' the Liberty Bell is presented in a broken form. The idea meant to be conveyed may be that there is no such thing as liberty left in the United States. But whatever it means, taken by itself, it would afford no ground for exclusion from the mails.

The cartoon entitled 'Conscription' portrays a youth lying across the mouth of a cannon with his arms chained to the wheels of the gun carriage. 'Democracy,' in the form of a nude woman, is tied by her extended arms and her crossed feet to a wheel. And 'Labor,' crouched down on a gun carriage, a pitiable object, is fastened in like manner. A woman is on her knees on the earth at the side of the cannon in utter despair, with her head bent back and her arms uplifted, while a child lies neglected at her side. The counsel for the complainant admits in his brief that this cartoon 'is a powerful argument against the conscription law. It says, in effect, that the youth of the land are by it forced into military service; that the law binds labor to military service as well; that it causes great agony and suffering to the womanhood of the country, and that the mothers of the

country with children too small to be subject to the 'draft' pray to God that the draft law may be repealed before their children come to military age, and that democracy is trampled under foot by such a law. That is what this picture says. But that is not what it says to us. It seems to us to say, 'This law murders youth, enslaves labor to its misery, drives womanhood into utter despair and agony, and takes away from democracy its freedom.' Its voice is not the voice of patriotism and its language suggests disloyalty.

If counsel wished the court to understand that in his opinion the effect of the cartoon would not be to interfere with enlistment, we are not able to agree with him. That it would interfere and was intended to interfere was evidently the opinion of the Postmaster General. And this court can not say that he was not justified in his conclusion.

The cartoon 'Making the World Safe for Capitalism' shows a Russian absorbed in studying a paper marked 'Plans for a Genuine Democracy.' On one side of him Japan and England appear in a threatening attitude and on the other Mr. Root and Mr. Russell, members of the commission sent by the United States to Russia, appear in the guise of advisers. Mr. Root has in his hands a noose labeled 'Advice,' with which it is intended to entrap or choke to death the Russian democracy. The court can not say that the Postmaster General was not warranted in concluding that this cartoon was intended to arouse the resentment of some of our citizens of foreign birth and prevent their enlistment.

In the cartoon 'Congress and Big Business' Congress is represented by a disconsolate individual who is ignored by a number of overdeveloped men of big business gathered around a table inspecting a large paper spread over it and labeled 'War Plans.' Congress is quoted as saying: 'Excuse me, gentlemen, where do I come in?' 'Big Business' replies: 'Run along now! We got through with you when you declared war for us.' This cartoon is intended to stir up class hatred of the war and to arouse an unwillingness to serve in the military and naval forces of the United States. The clear import is, if the war was brought on by 'big business,' then let 'big business' carry it on and let labor stand aloof. The court cannot say that the Postmaster General was clearly wrong in concluding that it would interfere with enlistments.

That one may willingly obstruct the enlistment service without advising in direct language against enlistments, and without stating that to refrain from enlistment is a duty or in one's interest seems to us too plain for controversy. To obstruct the recruiting or enlistment service within the meaning of the statute it is not necessary that there should be a physical obstruction. Anything which impedes, hinders, retards, restrains, or puts an obstacle in the way of recruiting is sufficient. In granting the stay of the injunction until this case could be heard in this court upon the appeal, Judge Hough declared that 'It is at least arguable whether there can be any more direct incitement to action than to hold up to admiration those who do act. *Oratio obliqua* has always been preferred by rhetoricians to *oratio recta*; the beatitudes have for some centuries been considered highly hortatory, though they do not contain the injunction "Go thou and do likewise."' With this statement we fully agree. Moreover it is not necessary that an incitement to crime must be direct. At common law the 'counseling' which constituted one

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Propaganda

an accessory before the fact might be indirect. (See Wharton's Criminal Law, 11th ed., sec. 266.) Bishop lays down the rule thus: "Every man is responsible, criminally for what of wrong flows directly from his corrupt intentions. . . . If he awoke into action an indiscriminate power, he is responsible. If he gave directions vaguely and incautiously, and the person receiving them acted according to what he might have foreseen would be the understanding, he is responsible. (1 Bishop on Criminal Law, sec. 641.)" And in *Regina v. Sharpe* (3 Cox's C. C., 288) it is laid down that—

"He who inflames people's minds and induces them by violent means to accomplish an illegal object is himself a rioter, though he takes no part in the riot."

"Indeed the court does not hesitate to say that, considering the natural and reasonable effect of the publication, it was intended willfully to obstruct recruiting. And even though we were not convinced that any such intent existed and were in doubt concerning it, the case would be governed by the principle that the head of a department of the Government, in a doubtful case, will not be overruled by the courts in a matter which involves his judgment and discretion and which is within his jurisdiction."

Several of the publishers of *The Masses* were brought to trial on charges of violating the Espionage Act.

The defendants protested that they had changed their minds since this publication and that they were now convinced of the justice of our entry into the war, and the necessity of the conscription act. Largely on account of this recantation, no doubt, the jury disagreed after remaining out for thirty-six hours.

VARIOUS LIES: THE SWEATER STORY.

As there is hardly a field of human endeavor that is not affected by the war, there is hardly a field which the hostility of the enemy has overlooked. This is what might be called the spiritual invasion. Anything that tends to diminish the ardor, the conviction, the optimism of the people at large, is hardly less destructive of effectiveness than an actual defeat on the battleground.

At a time when the whole nation must bend every energy and make every sacrifice, discouraging rumors gain an incalculable power. The ridicule of measures concerning food conservation, or aspersions on their honesty, or impartiality, may have as destructive a result as the torpedoing of food-ships. The starting of some picturesque lie such as the absurdity that the President's private secretary had been found guilty of treason and shot, spreads like wild-fire through the nation, carrying discouragement and dismay.

By Dissension

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The famous sweater story is a typical case. It is of the greatest importance to the health of our troops that sweaters, socks, wrist-lets and "helmets" should be knitted for them by the devoted women of the land, and an enormous quantity of these articles provided from the countless hand looms.

Suddenly a story appeared somewhere that a woman who had knitted a sweater and sewed into it a bank note for the comfort of the wearer, found that sweater on the back of a Red Cross agent, or on the counter of a department store. This story reappeared with inconceivable frequency in the United States. It was almost always told as the experience of a friend of a friend, and had just transpired in each instance.

Every woman who hears and believes this circumstantial story is inclined to give up her work. The sum total of such a diminution of output can not be computed. In times of peace such examples of wireless gossip are merely amusing encouragements to satire. In a time of war, they constitute a serious danger.

The extent of this form of propaganda was revealed by the American Protective League, which sent out a Questionnaire to about one hundred and fifty towns and cities. The story of the execution of the President's secretary, the sweater story, and various other fables were reported as rife in Chicago, Cincinnati, Pittsburgh, Kansas City, Cleveland, Fort Wayne, Minneapolis, Galveston, Houston, Hastings, Nebr.; Memphis, Tenn.; Rice Lake, Wis.; Pierre, S. Dak.; Sacramento, Portland, Oreg.; Tucson, Ariz., and nearly every other community. In many cases it is impossible to trace such stories directly to German sources, but they are no less dangerous for being of American origin. Rumor-mongers are as proper subjects for investigation and repression as mutinous soldiers, deserters or traitors in the ranks.

The Milwaukee *Sentinel* of June 21, 1918, announced a new story going the rounds to the effect that Japan is getting ready to attack the United States as soon as all our draftmen are out of the country.

In San Francisco a German clairvoyant was arrested for giving out prophecies of pro-German successes to her dupes.

Stories of naval disasters to our fleet, quotations from eye-witnesses, once-removed, of hundreds of wounded sailors seen being smuggled into hospitals; stories of epidemics sweeping through our camps; tales of hardships and cruelties and immoralities—all these tend not only to agonize the kindred of our soldiers and sailors, but

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The Emma Goldman Papers

[Statement in re: trial and imprisonment of Goldman and Berkman and Berkman's indictment in the Mooney case, 1918 Jan.?] / [Harry? Weinberger?]. - 3 p. ; 36 x 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger prepares a history of the government's legal persecution of Goldman and Berkman, from the time of their arrest in June 1917 to Berkman's indictment by the San Francisco grand jury in the Mooney case.

Notes: Broken type.

Alexander Berkman and Emma Goldman were arrested in New York City on the 14th day of June, 1917, on an indictment charging them with conspiracy to violate the Draft Act by telling people not to register. The indictment charges as overt acts of the conspiracy speeches at various meetings both before and after the Conscription Act was passed, and also articles in Mother Earth and The Blast, and circulars of the No-Conscription League.

Brooklyn Real Estate was offered for bail for Berkman and Goldman, and refused by the Court. The bonding companies of New York refused absolutely to go bail for either of the defendants on alleged patriotic grounds. Liberty bonds were offered for bail but were refused by the Court. Finally cash was obtained for Emma Goldman and she obtained her release one week before the date of the trial, Wednesday, June 27th, while Berkman obtained his release by the deposit of cash after 5 P.M. Monday, June 25th.

Both Berkman and Goldman defended themselves on the trial, and because of the fact that Berkman did not obtain his release until late Monday night, it was almost impossible to prepare the trial, which was set for the Wednesday following. In addition, Berkman asked for an adjournment, besides not being prepared, on the ground that he was in physical agony, coming into Court on crutches, because of an injury to his leg. A doctor's certificate to that effect was presented to the Court, but the Court refused an adjournment.

There was nothing shown in the entire trial that anyone failed to register or refused to register because of speeches or writings of Berkman or Goldman. As a matter of fact, the evidence showed that at some of the meetings, Miss Goldman specifically stated that she would not advise anyone "not to register" nor "register"; that that was something that each individual would have to determine with his own conscience.

Upon the conviction of Berkman and Goldman, the Court immediately imposed sentence, though defendants asked for a few days before the imposition of said sentence. The Court then turned the two defendants over to the United States Marshal who took them to Atlanta and Jefferson City respectively. Though the Court was informed that the defendants intended to appeal, the Court would not give them time to consult counsel nor would it grant them a writ of Error which would allow them out on bail pending the appeal. This was the first time that any such action was ever taken by any United States Court. The defendants did not have any time to arrange any of their affairs, though each was engaged in the magazine and book publishing business. Nor were they allowed time to see any of their friends before leaving for prison to serve their term, which was the full limit of the law - two years and \$10,000. fine, and also that defendants be deported.

Louis Bremer and Morris Becker were also convicted of conspiracy to interfere with the Draft Act. The only evidence against them was that

The Emma Goldman Papers

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they gave out circulars announcing a meeting of the No-Conscription League, though the detectives said that Kramer as well as two other defendants who were acquitted, had told people not to register. As a matter of fact there was absolutely no evidence against Becker whatsoever, and the only evidence against Kramer was the unsupported statement of a police officer that he heard Kramer tell someone not to register. Kramer was sentenced to two years and \$10,000. fine and ordered deported. Kramer being within the draft age had refused to register, though in jail at the time awaiting trial on the conspiracy indictment, for which he was sentenced to an additional year. Becker was sentenced to one year and eight months, and he was informed in prison that he would also be deported.

Alexander Berkman was a delegate of the International Defense League of San Francisco in behalf of the Mooney case. He had arranged mass meetings throughout the country and had addressed numerous unions to secure their moral and financial support on behalf of Mooney and the other defendants. He finally came to New York in November, 1916, and interested the United Hebrew Trades, a central labor organization of Jewish speaking workers in the East. The United Hebrew Trades, in co-operation with other bodies of the American Federation of Labor, took the matter up and has carried on a country-wide agitation on behalf of the San Francisco Defense.

As a result of these activities on behalf of the five defendants in San Francisco, Berkman was indicted in San Francisco more than one year after the others, but only after his conviction herein New York in the Federal Court on the conspiracy charge. It was in the last week of the Rosa Mooney trial and was the last desperate attempt of the San Francisco prosecution to effect the verdict in that case by injecting Berkman, an acknowledged Anarchist, into the trial. There had never been any attempt to indict or arrest Berkman while he was in San Francisco, though he was there more than five months after the bomb explosion and after the others were indicted and all during the time of the Tom Mooney trial.

California demanded Alexander Berkman's extradition after his release on bail pending the appeal to the United States Supreme Court. It was Berkman's personal relationship and friendship of many years standing in New York with labor and labor leaders that made labor protest against his extradition to San Francisco, and which caused them to send a large delegation to Governor Whitman at Albany, representing over a million workers, as a protest against the Governor granting his extradition.

In Petrograd many demonstrations against the arrest of Berkman and the trial of Mooney have already been held and reported in this country. The case has become of international importance, protests have been made by labor in Sweden, Holland, Italy and Russia. The Mooney demonstrations in Russia have caused the President to send a commission to San Francisco to investigate the entire case. Professor William S. Thayer of John Hopkins University, and a member of the American Red Cross

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Mission to Russia, upon his return from Russia on January 4th, 1918, gave a statement to the press that mass meetings were being held in Petrograd and stories were being circulated all over Russia as protests against the arrest and persecution of Alexander Berkman here in America.

Alexander Berkman and Emma Goldman are well known in the Russian Revolutionary Movement and have personal acquaintances and friendship with many of the men at the head of the Bolsheviks. Berkman and Miss Goldman are personal friends of Leon Trotsky, Minister of Foreign Affairs of Russia, and Berkman is a nephew of Maxim Gorky, the intellectual leader of the Revolutionary movement in Russia and who is now the head of the Peasants Councils of Russia. They are also personal friends of Prince Kropotkin, Vladimir Bourtzoff, Mme. Breshkovskaya and Nicolas Chaikovsky.

The disaffection of labor in the United States will receive new stimulus upon the imprisonment of Alexander Berkman and Emma Goldman, and a great deal of agitation will ensue if Alexander Berkman should be extradited to California, on the trumped-up charge in the Mooney case. (The trumped-up charge in San Francisco is very apparent, as the District Attorney of San Francisco refused to give a copy of the grand jury minutes in Berkman's indictment to Governor Whitman of New York upon his demand and he refused a copy to the President's commission).

Besides this, many further protest meetings and agitation all over Russia will be held on behalf of Alexander Berkman and Mooney. The entire work of the President of the United States to cement the friendship between this government and the present Russian Government will be frustrated, and the grounds of antagonism of the people and the leaders of Russia to this government will be greatly accentuated by it.

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The Emma Goldman Papers

[List of Non-Mailable Publications, 1918? Jan.? (excerpt)] / [Post Office Department?]. — 1 p. ; 19 × 16 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: The Post Office Department's list of non-mailable publications includes *Mother Earth*, *Mother Earth Bulletin*, and *The Blast*.

Notes: Light copy; barely legible. Enclosed with 880928040.

"Mother Earth", a magazine published at 226 Lafayette Street, New York City, by Emma Goldman. Excluded from the mails September 11, 1917 under the Espionage Act.

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"Mother Earth Bulletin", published by Emma Goldman at 226 Lafayette Street, New York City. Excluded from the mails November 16, 1917 under the Espionage Act.

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"The Blast", published at 1111 North Dearborn Street, Chicago, Ill. Excluded from the mails September 11, 1917 under the Espionage Act.

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"The Agricultural Worker", published by the Agricultural Workers Union, 1111 North Dearborn Street, Chicago, Ill. Excluded from the mails September 11, 1917 under the Espionage Act.

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"The Socialist", published at 1111 North Dearborn Street, Chicago, Ill. Excluded from the mails September 11, 1917 under the Espionage Act.

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"The Earth", published at New York City. Excluded from the mails September 11, 1917 under the Espionage Act.

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"The Earth Bulletin", published by the Earth Bulletin Company, 1111 North Dearborn Street, Chicago, Ill. Excluded from the mails September 11, 1917 under the Espionage Act.

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The Emma Goldman Papers

Mother Earth Bulletin / Emma Goldman, *et al.* — Vol. 1, no. 4 — New York : Mother Earth Pub. Ass'n., Jan. 1918. — 12 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Someone in the Post Office censorship department has marked the offensive portions of the January 1918 issue of *Mother Earth Bulletin*.

Notes: Enclosed with 870527002 and 870527003 under cover letter, 810128085. Enclosed with 810128085 under cover letter, 810128086. Enclosed with 800519040. For related document, see 810128083.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

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MOTHER EARTH BULLETIN

VOL. I.

JANUARY, 1918, NEW YORK

NO. 4.

Farewell, Friends and Comrades!

The Supreme Court of the United States has spoken. Rest in peace, dear Fatherland! Firm stands the guard—at Washington.

The draft law has been declared constitutional. The good citizen need worry no more about the justice of forced military service: it is constitutional. Involuntary servitude should give the free sovereign no more anxiety: it is constitutional and democratic. The humanity of forcing men to bear arms in violation of their conscience may not be questioned any more: it is constitutional, it is democratic, it is final.

The highest judicial tribunal of the United States has sustained the verdicts of the lower courts of the various states, EN MASSE. Without wasting its time on facts or arguments, the United States Supreme Court has decided, virtually, that the government has the right to do anything it pleases, and that there is no more to be said about it.

The decision also upholds the so-called conspiracy cases appealed from New York, Ohio, and other States, and affirms the sentences of Emma Goldman, Alexander Berkman, Morris Becker and Louis Kramer, convicted in New York for anti-draft agitation.

The action of the Court does not surprise us. We expected it. But we cannot refrain from expressing the pain we have felt at the limited social vision of the well-meaning friends who were so naively hopeful of legal justice, in spite of the all-too-numerous lessons to the contrary.

Be of good cheer, good friends and comrades. We are going to prison with light hearts. To us it is more satisfactory to stay behind prison bars than to remain MUZZLED in freedom. Our spirit will not be daunted, nor our will broken. We will return to our work in due time.

This is our farewell to you. The light of Liberty burns low just now. But do not despair, friends. Keep the spark alive. The night cannot last forever. Soon there will come a rift in the darkness, and the New Day break even here. May each of us feel that we have contributed our mite toward the great Awakening.

The BULLETIN will continue, with your help, even in our absence. It will have a thorny path, but we know we may depend on your interest and co-operation as generously and faithfully as you have helped in the past. By means of the BULLETIN we shall keep in touch with you, while we are in retirement, and you shall hear the voices that cannot be stifled by stone walls.

Au revoir, some day,

EMMA GOLDMAN

ALEXANDER BERKMAN

P. S.—Direct word from friends is a great joy to the prisoner. Mail will reach Emma Goldman at State Prison, Jefferson City, Mo. Alexander Berkman, Louis Kramer and Morris Becker are to be addressed at U. S. Penitentiary, Atlanta, Ga. The prison rules require correspondents to sign full name and address.

The Trotsky Idea

Alexander Berkman

Only a few weeks ago the American press and jingo intellectuals were unanimous in denouncing Lenin and Trotsky as the agents and spies of the Kaiser. The Boylsheviki were branded as the tools of Prussian militarism, and anyone who dared to protest in this country against that infamous misrepresentation, was himself considered guilty of sedition.

All of a sudden the tune has changed. Quite unblushingly the New York Times, heretofore foaming at the mouth at the very mention of the Boylsheviki, now writes: "The reactionary press (in England) has misrepresented Trotsky as an agent of Germany." It would be rather interesting to know what peculiar kind of journalism the ultra chauvinist Times regards as reactionary.

Wilson himself, in his latest peace message, was moved to acknowledge that "the Russian people," whose spokesmen now are the Boylsheviki, "will not yield either in principle or in action. Their conception of what is right, of what is humane and honorable for them to accept, has been stated with a frankness, a largeness of view, a generosity of spirit and a universal human sympathy which must challenge the admiration of every friend of mankind."

This tribute to Trotsky, though somewhat belated, is at least indicative of some understanding of the soul of Russia. No doubt it is a bitter pill for certain quarters, but it may lead the American people to revise their newspaper-made opinion of the Lenins and Trot-

EMMA GOLDMAN

Publisher and Editor

10c a copy

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\$1 a year

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2

MOTHER EARTH BULLETIN

January, 1918

skys, and help them to appreciate the true character of the Russian revolution.

Trotsky—for the time being personifying the spirit of revolutionary Russia—has in two short months done more for peace and humanity than all the diplomats and politicians of the combined governments of the world. He has torn the mask off diplomacy, and shown to the world that diplomacy itself is one of the chief causes of the war. He proved that revolutionary consciousness and frankness of purpose is a veritable David to the diplomatic Goliath. The undiplomatic honesty of Trotsky has wiped diplomacy off the map. There is a grave menace to ALL government in such smashing of the sacrosanct.

By far the greatest significance of Trotsky is the effect of his peace negotiations on the German people themselves. He has done more to discredit Prussian junkerism in Germany than all the military activities of the allies. Moreover, it is only too evident that the German government is more afraid of the Trotsky propaganda among German forces than of Allied artillery. Prussian militarists know that revolutionary IDEAS are more fatal to autocracy than the armed legions of the Entente. That is the true reason why Germany is loath to continue the peace parleys with Russia.

The world diplomats have entirely missed the mark. They fear a separate peace between Russia and Germany. Yet a separate peace may prove the undoing of Kaisertum. A general peace, on the contrary, will enable Prussian militarism, with the aid of its armies, to hold its own against an uprising at home. But with the necessity of keeping up the war against the Allies, a separate peace with Russia would prove a terrible menace to German militarism at home.

The original idea of Trotsky was a GENERAL peace, with the initiative taken by Russia. But the Allies failing to join in his efforts, he may work for a separate peace—a proletarian peace—fully aware of the moral debacle it involves for Prussian autocracy and militarism.

The Great Hope

Emma Goldman

The attitude of dense ignorance and stupidity toward the most gigantic event since the French Revolution, the Boylsheviki movement in Russia, is not typically American. All great movements have met with the same fate in every land, since stupidity and ignorance have never been the monopoly of any particular country.

The Boylsheviki, like all revolutionary movements, have faced three characteristic stages. First, calumny, misrepresentation, hatred, opposition, and persecution. After that came ridicule, scoffing, and cheap deriding of the movement. Finally, in the third stage, recognition—though stunted and grudging.

It took the great movements of the past more than a century to pass these varying stages, and that at the expense of untold suffering and sacrifice. The Boylsheviki have swept on and all but reached the third stage in just a few months. That itself is the most striking proof of how thoroughly the Russian soil was fertilized by the blood of her great martyrs since 1825. The Boylsheviki merely voice the inarticulate Russian people who, oppressed and suppressed for centuries, have not yet acquired the power of speech.

Yes, the Boylsheviki are beginning to be recognized. In fact they have struck like lightning into the hearts and minds of the masses everywhere; yes, even the hitherto so contented and self-satisfied American workers. To be sure, there is still a vast mass which regards as gospel truth the adulterated mental food it finds in the Press. It has not yet learned that American journalism is the worst poison mixer and scurrilous falsifier of great ideals. But thinking people have learned from bitter experience not to believe the papers. These days almost the sole medium of information is the spoken word. But as most lecturers in America are either woefully ignorant on all matters Russian, or too poor of vision to grasp the vast and world-wide significance of the Russian Revolution, the people everywhere are at a loss to account for the miracle which is now holding the world in awe.

That explains, no doubt, the tremendous interest and response aroused by my lectures on the Boylsheviki and other phases of the Russian Revolution. In fact, never in my thirty years' experience have American audiences turned out in such numbers nor evinced such spontaneous interest as they have during my visit in Chicago and Detroit. Never did they respond with such warmth and enthusiasm to the message of the Boylsheviki. Aye, "illiterate, backward" Russia is yet going to become the spiritual awakener of the American masses, the bugle call to battle against the powers which have kept the peoples of the world in bondage.

The meetings in Chicago were arranged by the Nonpartisan Radical League, a body consisting of militant radicals. Among the most active in the League are our comrades William Nathanson, Billov, the Goodmans, and Slater, who were assisted by scores of other comrades: Sadie Bernstein, C. V. Cook, Sara and Harry Gruber, Ben Reitman, Sveda, and several of the younger rebels, the Baers, Sachs, etc. All worked like beavers against great obstacles, zero weather, and the difficulty of securing halls, but all enjoyed the fruits of their labors in tremendously enthusiastic meetings. There were nine in all, and a farewell banquet attended by 175 friends united by the spirit of solidarity and devotion that made me realize how very worth while it is to be ready to pay the price for one's ideal. It was a glorious farewell and an inspiring memory to take with me to Jefferson prison.

Detroit was the next city of joy. Four meetings arranged by comrades Jake and Minnie Fishman and J. Yanovitch, with the co-operation of a Serbian comrade, Mrs. Marcowitz, a most interesting and rare type of woman. There were also some others who helped, as they always do when there is important work on hand.

An overzealous Chief of Police came near depriving the Detroit people of an opportunity to hear the truth about the Boylsheviki, but our old friend Lee Smits, of the Detroit News, helped to change the official mind, and all went well to the end.

As in Chicago, the halls proved entirely too small for the mass of eager humanity that came to learn about the Boylsheviki, their aims and aspirations. At one meeting fully a thousand people were turned away. But most inspiring of all was the spirit of the people

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present. It was beautiful to see the light of understanding on the eager faces of my hearers as I portrayed the historic background which prepared Russia for the social and economic demands of the Boylsheviki. It was all very wonderful. Never again will I doubt the revolutionary possibilities of the American workers. If only one could reach them with the social truth now proclaimed to the whole world by the heroic Boylsheviki.

My last meeting in Detroit on the Spiritual Awakening of Russia would have capped the climax of interest; but it had to be given up. A hurry call from New York, informing me that the government demands our immediate surrender to the Federal authorities, compelled me to cut short what would have proven the most inspiring tour I ever made and my most worth-while contribution to the American understanding of the Boylsheviki.

With it all, America itself was not forgotten. A campaign for the amnesty of all political prisoners as soon as peace is concluded, was suggested at the farewell banquet in Chicago and placed before a huge audience in Detroit. The response was unanimous and overwhelming. Plans will be formed and the movement launched before we are taken back to prison.

To be sure, the American government is loath to recognize political prisoners. Like the ostrich hiding his head in the sand to deceive the hunter, our Democracy refuses to face the fact that every city has its quota of war casualties, men and women in prison for their political beliefs and activities. All other countries, whether monarchical or republican, recognize the right of amnesty. Will America, now engaged in war to make the world safe for democracy, refuse to do less than imperialistic Germany, autocratic Russia under the Tsar, monarchical England, or republican France?

It must be put to the test. Now is the time to awaken public interest in cases like those of Louise Oliverau, doomed to 45 years in the Colorado penitentiary (concurrent sentence of ten years on condition of "good behavior"); Daniel H. Wallace, serving 20 years in the Federal prison at Leavenworth, Kansas; eleven Italians condemned in Milwaukee to 25 years each, among them a woman with her little child taken away from her, and scores of others in every prison throughout the land, all convicted of "crimes" of a political nature, the result of the war and conscription, and whose sentences must end with the war.

Two lectures were scheduled for Ann Arbor, the Michigan seat of learning. They could not be held because the antiquated Daughters of the antiquated American Revolution scared the poor German Mayor of Ann Arbor into suppressing the meetings. Little did these poor revolutionary mummies realize that they were instrumental in starting Russian revolutionary underground agitation among the students of Ann Arbor, a large number of whom gathered in a private house and there listened breathlessly to the dangerous story of the dangerous Boylsheviki of Russia and their effect upon Boylshevism in America.

The flames lighted by the Russian people will illumine the horizon and point the path of the peoples everywhere back to the Internationale, back to a deeper and better understanding of economic and social freedom.

The Milwaukee Frame-Up

E. G.

We are constantly assured in America that a man charged with a crime is innocent until proven guilty. But that does not prevent the daily occurrence of men and women from the people being found guilty even though they prove their innocence by the most authentic evidence. The practice of frame-ups is common in the police departments of every city. But the public still adheres to the credulous belief that if an unfortunate victim is in the hands of the authorities he must be guilty, for surely the police wouldn't deliberately take away a man's liberty and life.

Well, the Frame-up in San Francisco which was given no publicity by the press of this country until the demonstration for Mooney in Petrograd, exploded the faith in the methods of the police. True, Billings continues to languish in prison. The noose is still awaiting Mooney. Fickert is back in the saddle to resume his criminal activities. Yet the San Francisco Frame-up is written in letters of fire upon the minds of the people, and unless Mooney and the others go free, San Francisco will go down to infamy for one of the blackest crimes upon Labor since 1887.

Now comes the news of another frame-up in Milwaukee—so cruel, deliberate and revolting as to arouse even the sluggish minds and hearts of those who never care what happens to others just so they are allowed to exist.

In the M. E. BULLETIN of September the beginning of this latest frame-up was reported. But for the benefit of those who have not read the issue, I will give excerpts from the statement prepared by the attorney of the eleven Italian victims who were framed up by an ex-priest and members of the police department of Milwaukee.

A group of Italian Anarchists, Socialists, I. W. W.'s and others of general liberal leanings organized a little social club where they gathered for entertainment, amateur theatricals, dances and occasional lectures on social topics. Their activities and success aroused the ire and envy of an unfrocked Catholic priest, who found it more profitable to use the methods of the Evangelic church to save souls. Especially was he enraged over the audacity of the young Italian who would attend the Reverend's soul saving open air meetings and heckle him as to the greater importance of saving the bodies of the people. At any rate, the heckling continued at every meeting until finally the ex-priest went to the police with the story that a dangerous lot of Anarchists, pro-Germans, I. W. W.'s had desecrated the American flag, denounced the President, etc., etc. Of course the reverend gentleman was given "protection."

On the ninth of September, just as the Italians were filing out of their club rooms after a lecture on Socialism by La Duca, Secretary of the Italian Socialist branch, Reverend Guiliani shouted to the police: "Here go the Anarchists, pro-Germans, I. W. W.'s!"

Immediately the police and detectives charged the crowd with drawn clubs and guns. Antonio Fornasier, an Anarchist, was killed instantly; nevertheless, ten shots were fired into the body of the dead man. Augusto Marinelli, another Anarchist, was mortally wounded. He died in the hospital five days

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later. Tostalin was slightly wounded in the shoulder.

In the general shooting several policemen were slightly injured. The usual hysterical arrests and round-up of Italians began. Anyone who could not prove good standing or respectable connections were dragged off to jail, among them the young wife of one of the men, Mary Nardini, the mother of a five-year-old child. The club rooms were raided and "dangerous" evidence, consisting of pictures of Karl Marx and Peter Kropotkin, as well as Anarchist and Socialist literature, was confiscated. Then, after a process of elimination, eleven Italians, ten men and one woman, were held as the originators of the police riot. Though charged with the shooting, the defendants were really tried and convicted for the bomb explosion that happened long after they were arrested and while they were in jail. Witnesses for the defense were arrested and terrorized, so that of fifty witnesses only six dared appear at the trial. We quote from the statement of the attorney of the prisoners:

"On November 24th Miss Richter, the Evangelist's chief aide, was supposed to find a bomb beneath the Evangelical Church. She got some member of the choir of that church to deliver the bomb to the police station. The bomb was supposed to have been under the church for several days. At the time this bomb was delivered to the police station, the Evangelical minister was out of the city. The bomb exploded in the police station, killing eleven persons and injuring others. At once the bomb explosion was associated with these defendants, the most preposterous thing in the world, because the defendants and their friends would be the last ones to place a bomb or to do anything of that kind on the eve of their trial, for nothing would prejudice more their chance of acquittal than anything of that kind.

"I never spoke to these defendants except through an interpreter and never without a stenographer being present. The first time I spoke to them was in jail and after that I never saw them nor spoke to them except through an interpreter in the courtroom. The whole matter was investigated and the story above was fully corroborated. The defendants were forced to go to trial on the very morrow of the burial of these eleven people, with prejudice and feeling running high. Although we believe that we were entitled to nine challenges, we were only allowed four, and out of 37 men examined, over half were excused because of prejudice, and some of the men were made to qualify on the jury who had little education and fitness to sit in judgment upon a case that involved understanding and reading and scanning and perusing matters of historical and economic significance and importance.

"Captain Sullivan, a very efficient and honorable officer, told me that he would be willing to let the whole bunch go free if the perpetrator of that bomb could be found; he believing honestly that the defendants were associated with that bomb throwing; I believing honestly that neither these defendants nor their associates had anything to do with the bomb whatever. There are many who believe that the bomb was placed by a friend of the Evangelist,

some believe it was placed by an alien enemy, and others attribute it to a German. I make no personal comment on these statements.

"The tragedy, which otherwise might have been the joke of the whole trial, was that W. C. Zabel, the Socialist prosecutor, permitted himself and his assistants to misinterpret philosophic and economic excerpts from some of the master works of the world into criminal, anarchistic doctrines and make Karl Marx and the red flag the objects of his vituperous attacks."

After the farce of a trial, the jury was out seventeen minutes, returning a verdict of guilty. Then the Socialist Prosecuting Attorney, W. C. Zabel, delivered himself of a wild patriotic harangue that Milwaukee must be rid of the murderous Anarchists and undesirables, and suggested a vote of thanks to the instigator of the whole terrible business, Rev. Guilian.

The ten men and Mary Baldini were given 25 years each, and the State appropriated Mary's five-year-old child, although her people are anxious and well able to take care of the child.

It goes without saying that such a terrible crime cannot go unchallenged. Already an International Defense League has been organized in Chicago to begin a campaign of publicity so that the people may learn of this latest outrage in Milwaukee. For that and the appeal money is most urgently needed.

Send all communications and funds to William Judin, 1006 S. Ashland Blvd., care of Workers' Institute, Chicago, Ill. Arrange meetings! Bring the matter to the attention of people! The eleven unfortunate victims of Milwaukee must be saved!

In the Trenches

In the Federal Court of Kansas City, Mo., nine people have been convicted, on December 6, for alleged conspiracy against the Draft Act. Judge Van Valkenburg gave all but one of them the maximum penitentiary sentence of two years and also fined each of the nine \$1,000. The one woman in the case, Lenora Warneson, mother of a babe of four months, he did not send to the "pen," solely because "this court does not want to set the precedent of sending babies to jail." The defendants are going to appeal and have retained Redmond S. Brennan of the firm of Frank P. Walsh; he states that there is sufficient reversible error in the record to make the case worth contesting.

The nine people are: Lenora Warneson, known throughout the country as a staunch anti-militarist school teacher; Raymond I. Moore, Secretary International Radical Club and former Socialist candidate; Earl R. Browder; William E. Browder; Edward W. Egan; Harry I. Doile, and Elea Luboshey. All but the last two are militant trade unionists, the first five being members of the Office Workers' Union, Egan of the Iron and Tin Workers' Union, and Doile of the Typographical Union.

After war was declared, in the absence of a war-time program of the A. U. A. M., this group (except Doile and Luboshey, who were

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NOT members) formed the Federation for Democratic Control to work for the maintenance of civil liberties and to prevent the passage of conscription. When the latter became a fact, an injunction suit was filed against the state and city officials charged with the execution of registration. In the midst of this case, while the attorney was filing the appeal, some of the defendants were arrested in the courtroom and charged with conspiracy against the draft. This was on May 31; on June 6 a special grand jury returned an indictment against the nine people named above, and also a tenth, H. D. Kleinschmidt, who had helped raise funds to test the legality of the draft law.

The government based its case upon insinuation and innuendo. Thus it was shown that Doile (whose only connection with the others, by the way, was that of printer of its literature) had printed the Federation's declaration of principles; Kleinschmidt swore that Luboshey (who was not a member of the Federation) had given him some of the cards bearing the legend "Kill Conscription—Don't Register" (which were alleged in the indictment as one of the overt acts of the conspiracy), and that he (Kleinschmidt) had distributed them; therefore, by implication, Doile had printed these cards. The government's charges were supported by secret service agents, government officials, and reporters and editors of the capitalist press. Most of it was pure fabrication. Kleinschmidt told a perjured story full of contradictions when he turned state's evidence. Samples of the government's testimony: Fred Tate, chief of the secret service agency, swore that he took an I. W. W. card from Eagan and that the color of the card was BLUE! Kleinschmidt testified that he was out of town on the date when the alleged cards were distributed. The judge's instructions to the jury were unfair and highly prejudicial against the defendants. The jury was made to understand that if it did not bring in a verdict of guilty, its members would be disloyal.

* * *

As previously reported in the Bulletin, Daniel H. Wallace, president and organizer of the League of Humanity, with headquarters in Chicago, Ill., has been condemned under the Espionage Act to twenty years prison for a lecture delivered by him in Davenport, Iowa, on July 25th, 1917.

Wallace is the author of "Shanghaied into the European War," a unique book representing his experience of eleven months in the trenches of France, Belgium and the Dardanelles. He is now in the Federal penitentiary at Leavenworth, Kas., and no doubt he must be envying Karl Liebknecht, convicted in undemocratic Prussia of high treason and punished only with four years and one month prison.

* * *

It is not in the interest of those engaged in war to make known the number of conscientious objectors in the various camps and prisons. With the newspaper conspiracy of silence on this subject, the public at large is now under the impression that the great protest against conscription has fallen flat, and that conscientious objectors have at the last moment proven false to their convictions. Only occasionally, hidden in some corner of the papers, one is permitted to learn that there are still men who will not be daunted, no matter what the cost.

In a special to the New York Times the following case is reported from Camp Dix, Wrightstown, N. J.:

Not even the remission of the death sentence, that probably would have been carried out to-day had it not been revoked by Brig. Gen. J. S. Mallory before relinquishing his command of Camp Dix, has failed to alter the defiance of military authority maintained by Rudolph J. Vrena, a drafted man from North Jersey. Vrena, a Bohemian, although he has spent all but six months of his 27 years in the United States, bases his objection to becoming a soldier on his claim of being an International Socialist.

Vrena is the first man drafted into the national army to be sentenced by court-martial to the penalty of "death by musketry," for refusing to obey the order of Major J. E. Wilson to sign the declaration of a soldier and his assignment card and prepare for his physical examination. He pleaded not guilty, but was convicted on the first charge, and the court agreed on the death sentence. Brig. Gen. Mallory vetoed his sentence. Vrena, resting on his cot, displayed little interest in the outcome of his case this afternoon.

"I'll not pose as martyr. I am a Socialist of the most radical branch. We believe in universal brotherhood, and I am obliged, no matter what the consequences, to refuse to become part of the army, at least until assured that labor is to have a part in settling the questions at stake." Vrena has refused to don a uniform.

Evidently the Boylsheviki are not confined to Russia. Significant, is it not?

Another very interesting case is that of H. Austin Simons, a young American and brilliant writer, now at Camp Grant, Rockford, Ill. The case is reported in the Chicago American as follows:

H. Austin Simons, "conscientious objector," received a sentence of eight years before Judge Advocate Lieutenant Charles F. Dyer of the Three Hundred and Forty-second Regiment. When told of his sentence by the Chicago Evening American correspondent he merely smiled.

He took up his pen and "poemed" a bit to show his feelings have not been disturbed. His verse, written extemporaneously, follows:

"No moment more for weeping;
Now courage comes—free, uplifting,
With her I go to the long agony,
And I will be sweet and glad in my great beauty,

And with my love cheat the bitter seasons
Of their bitterness."

"What are these principles on which you object to wear the uniform of Uncle Sam?" His answer was:

"A humanitarian principle, which makes it impossible for me to do any thing that will contribute to the death of another person. In the second place, a conviction that it is my duty to live for the future; and the belief that I cannot serve the future properly by going into military service."

His last principle was that his life was dedicated to a creative impulse—art—particularly the art of literature; as art is

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creative and war is absolutely and entirely destructive.

"I am following the dictates of my conscience," were his final words.

During the trial another question asked of the objector was, "do you believe in God." His answer was, "Yes, a God." "You have a God of your own, then?" Simons' face lit up for a moment and he answered, "A God that is believed in by the philosophical world."

Are They Going to Hang Tom Mooney?

Ben Martin

Of the labor struggle on the Pacific Coast, in which the trump play of the employers was the most picturesque perjury conspiracy in history, the question is being asked, "What is the outcome; are they going to hang and imprison men after the world has gasped at the brazen fraud of their trials?"

We very much fear that the answer is, "Yes."

If this were not true, why are the two defendants who were acquitted after the perjury exposures held in jail to this day exactly as though they had been found guilty? Indeed, it is astonishing to hear half-awake persons ask whether the sentences corruptly obtained against Billings and Mooney are going to be enforced, while the sentence against Billings has already been enforced; for Billings is now actually in Folsom Penitentiary serving a life sentence, and it is intended to keep him there until he dies; while Estelle Smith, the chief witness who caused his conviction, has retracted her testimony and brands the whole case as a foul frame up, naming District Attorney Fickert and the detective Martin Swanson as instigators of the conspiracy.

Are they going to enforce the fraud-born decrees? They don't even bother to answer Estelle Smith's accusations—except that they are "unworthy of reply!" Estelle Smith is good enough to send Billings to a life of torture but is "unworthy of reply," when she recants!

Anyone who has cut his eye teeth in public affairs is aware that every process of law is a mere cover for something else. Behind every national, international or local act of Society's machinery, is a powerful class interest. When Leon Trotsky, the New York Jew, published the secret treaties that laid bare the sordid agreements and purposes of the world war, he exposed nothing new—nothing but the condition that exists in exact duplicate in the rotten politics of New York, and perhaps worse in self-righteous politics. It is the system; it is the same thing in Patagonia, Berlin, Bucharest and California—wherever private capital reigns.

When Frank C. Oxman falsely swore that he saw labor unionists commit the parade murders, he did not do it for fun, nor did he do it solely to win a few thousand dollars of reward. His was the voice of a great class demand, in committing that perjury; he would not have had the courage to do it without the moral backing of a powerful, self-justifying social force.

The Oxman crime was exposed by a bit of honesty in an unexpected quarter responding

to another great social demand—the interests of the awakening masses.

Estelle Smith has recently told one of the most remarkable stories ever suppressed by the newspapers, the bald details of how she, with a peculiar native ability for playacting (which we had occasion to appreciate when she made her dramatic appearance against Billings), was used as instructress for a group of perjurers that gathered in a dental office to rehearse.

Estelle Smith's mother, Mrs. Alice Kidwell, has gone even further than the daughter into detail, and the story of how the employers' clique of California was able to command the death of its enemies through the gutter of police-trained perjury, is known as far as it can be known without the consent of newspaper capital.

But it is only the naive who will imagine that mere words of exposure will thwart the iron will that has decreed this attack upon Labor. The interest is still there; the will is unbroken, the motive has not been changed one whit by exposures. Capital was merely temporarily embarrassed. As soon as it can overcome the embarrassment, and the move to do so is now in progress, its will will be enforced. Oxman's acquittal was demanded and obtained by agreement between judge, defendant and the district attorney who hired the lawyer for the defendant. With Labor asleep, Capital is all-powerful and controls all the machinery of "justice;" it can do as it pleases, and it pleases that Billings rot and Mooney die.

Labor came very near waking up in this wonderful case. The newspapers are keeping quiet now until Labor can sink back into deeper slumber. Then Mooney will hang.

As if to show its power and its contempt for the rights of its subject class, Capital, through its contemptible servant, Judge Dunn, is keeping Weinberg and Mrs. Mooney in jail, after their acquittal, for the coming slaughter. And Nolan, who everyone thought had at least escaped from the murderous mesh, they now announce they will hang, too. They don't even let him know what the specific charge against him is, since the "high explosive" that a detective swore was found in his home, has proven to be epsom salts.

These victims will live or die, the victory will be won or lost, according as Labor allows it or not. No other power can do it; there is no other power than the two, Labor and Capital.

The report of the Federal Commission for the investigation of the cases has not been published at the time of going to press.

Indictment As A Social Institution

Joe Dunn

In the Russia of the old regime, everybody was born indicted. A blanket indictment for sedition was considered as covering the entire population, suspended only during the forbearance of the Tsar.

But in democracies it is different. The status of being under indictment is not born in one, but is voted upon individuals singly or in groups. This gives a power of discrimination in class making. The merit system can be applied.

In America we have a newly-created class

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of the Indicted. It includes all persons who write on advanced social questions. All persons who think, if they can be caught thinking. Those who engage in discussion of the problem of freeing labor are rounded up with especial care and put into the class of the Indicted. Then all are placed under bail or under lock and key and the social order with the Unindicted in ascendancy is rendered safe.

The Indicted can be put in jail, fleeced or hanged at the pleasure of the Unindicted. It is a surprisingly facile luxury. A committee of the Unindicted can say, "Twenty thousand dollars," and, presto! one of the Indicted will have to pay up in a jiffy. Or "Ten years in prison!" and, just like magic, off goes an Indicted for whatever length of time the committee of the Unindicted may please to say. It is awfully easy. Try it yourself: "Ten thousand dollars! Twenty thousand dollars! Two years in prison! Fifteen years! Forty years! Life! Hanging! One is just as easy to say as another.

The Indicted are expected to go about with a weak-kneed, hang-dog look, and to be very much restricted in their actions.

It is a perfect riot of luxury for the Unindicted.

Why Has Academic Freedom Been Abolished?

Prince Hopkins

Recently we have witnessed a spectacle that puzzled many people. When our Republic entered upon a course of action—the war—that vitally concerned every citizen, citizens were deprived of the right to say that this policy was unwise and should be reversed. Had this deprivation been accompanied by a tearing off of the mask, a frank avowal that from a capitalist viewpoint the Prussian form of government had proved its efficiency, all would have understood the measure as a simple coup d'état. But what makes the situation vastly more interesting to a psychologist is the fact that the very party which has shown itself so cynically contemptuous of trusting democratic principles in a supreme test, has justified each autocratic step in the name of "democracy" or of "liberty." In the scientific analysis of motives, it is a fundamental principle that we should base our judgment upon the evidence of men's actions, rather than upon what they declare with their lips.

In taking our side in any controversy, we ought to judge the aims of the two opposing parties, not so much by what they profess, as by the weapons and tactics that the parties choose to employ. Especially is it true that we should avoid depending too much upon the avowed ideals that the parties put forth for the consumption of outsiders in the present age, because the present is essentially an age of camouflage. To-day we have the spectacle of some twenty nations engaged in a terrific war in which it is manifestly impossible that all the nations can be fighting either unselfishly or on the defensive, and yet every nation engaged in the conflict excuses itself on the ground of absolute necessity, and even puts forward certain idealistic aims as additional justification for its barbarities. What is true of nations is no whit less true of individuals. Hypnotists will tell you that when you have told a hyp-

notized subject that on awakening from his sleep he will perform some action, as, for example, that he will rush to the window and look out, when he awakes, he will perform this action in due course, but on your questioning him as to why he did so, he will not reply simply that he acted in response to an unreasoning impulse to rush to the window. Instead, he will evolve a rational justification for his act—such as that he saw a fire engine dash along the street; and he will persuade even himself that this was the true reason. We always try to make our actions seem to be rational, when, as a matter of fact, they are usually simply impulsive or instinctive. Bearing this in mind, we must not be surprised at the actions of financiers who profess, and in many ways put into practice, very high motives in the small details of their daily conduct, but whose entire public policy is guided by sordid interests of their social class, if not of their individual selves. We are not to consider that these men are consciously selfish in all cases, though they sometimes are so, but we must regard them as not fully understanding themselves and their own motives, and as projecting these personal motives into their social theories. When you hear of a governor who sends his militia to break up a peaceful assembly, or of a college president who must have his faculty intellectually docile, or of a mayor who makes belief in a military policy a requirement for membership on the school board—in short, wherever some one declines to play fair, it is profitable to enquire "What class, or what greed, owns this human tool?"

Test out this theory by the showing of the war. Don't the men whose welfare is linked with the success of big banking houses and manufacturing establishments line up squarely for a foreign policy that will down their Teutonic rivals in the world-market? And why did these men purchase, almost openly, the control of the "public press" save that they realized that the masses' realization of where lay their own interests would cause those masses to decline the sufferings and sacrifices of a war which would bring them no good—unless their judgment could be warped by misrepresentation of the facts.

To deny your opponent the right to state his case, is always a dangerous policy, since it at once excites hatred and mistrust. We therefore look to see such action only on the part of men who feel their case to be very hopeless, or know they lack the brains to defend it, or who are prompted by unworthy motives which they cannot confess to.

Certainly there is no lack of brains to defend the party of wealth. There are always able, honest brains to be hired by him who can pay for them. Therefore one or both of the other motives must be at the bottom of the present intolerance.

The anti-war party has only asked for a "fair field and no favor." In answer to the militarists' hypnotic iteration and reiteration of old disproven arguments, these pacifists have brought out continuously new and more clinching evidence for their contentions; they have been far from despair of ultimate triumph along this line. The I. W. W.—against whom the newspaper reports of setting fire to wheat-fields, spiking logs in the saw-mills, importing firearms, and accepting

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MOTHER EARTH BULLETIN

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German gold, have never even been formally lodged by the government, and yet are charged against them by the papers—these men have not retaliated with lynch-law for lynch-law, but have gone to prison like the early Christian martyrs, with songs of a transcendent hope upon their lips.

How has it been now with the party that represents "law and order" and how with what has been called our "better controlled class?" Surely we shall find their utterances to be free from all vulgar soap-box extravagance? Surely they will conduct their side of the quarrel with well-bred tolerance, even if with a disdainful hauteur in their reserve? Surely the best people, with aristocratic confidence in their case and in their own ability, need never wallow in the muck of foul play?

Or has this party, on the contrary, mysteriously avoided free discussion, and drawn sophisticated distinctions between free speech and "license," putting into the category of "license" every statement that seriously endangered its interests? Has it supported its mayoralty candidate with a million-and-a-half-dollar campaign contribution, and in this same campaign has it shown to every eye its control over the press, by swinging six of the seven available dailies into line? Has it mistrusted the people even while it preached a mission of democracy? Has it implied that college students were not mature enough to discuss public questions impartially, and secured the discharge of eminent professors because it was distrustful of their political position? Has it stooped so low as to catch even little children in its net, importuning them and sending them upon the streets to importune others for money to buy its bonds? Has it set them to work at drudging task to aid the military? Finally, has it peremptorily discharged all teachers who would not lend themselves to converting our public schools into mental straitjackets, to the end of indoctrinating childish minds with the official dogma, and warping innocence that can not defend itself?

Gentlemen of the Jury, the facts are known to you. The law also is known to you—the psychological law that a man's conscience is disclosed by the way he fights his cause.

How meekly shall we stand for these things?

The Surgeon's Duty

Alexander Berkman

"How can you Anarchists approve of Trotsky and support the Russian Boylsheviki?" a pacifist friend recently asked me. "Most of the Boylsheviki are Social Democrats," he added; "believers in government. Moreover, Trotsky has resorted to methods of suppression, as in the dispersal of the Constituent Assembly. Can you explain why you support him?"

I shall try. As Anarchists we believe neither in government nor in violence, both of which are indeed synonymous in our philosophy. And no doubt we, the Anarchists, would be the first to oppose the Socialist Boylsheviki should they attempt to establish themselves as a PERMANENT government with the

power to impose its authority upon the people. We believe, however, that the Russian Boylsheviki—consisting as they do of Social Democrats, Social Revolutionists, Syndicalists and Anarchists—do not represent the narrow-minded Socialist type whose ideal is a strongly centralized Socialist government. On the contrary, we have reason to believe that the Boylsheviki in Russia are the expression of the most fundamental longing of the human soul that demands fullest individual liberty within the greatest social well-being. That is why they have become, and are permitted to remain, the public voice of revolutionary Russia.

As to the Boylshevik activities at the present moment, and the immediate program of Lenin and Trotsky—I can only say that an extraordinary situation may demand extraordinary measures.

It is most unfair to judge Trotsky and his co-workers on the basis of actions forced upon them by the stress of a most momentous crisis. Take, for instance, the suppression of the Constituent Assembly. We know Trotsky and his views. We know that Trotsky does NOT believe in the limitation of the freedom of press and assembly, or indeed in suppression of any kind. But Russia is in the midst of a revolution, the greatest socio-economic upheaval of all times. A revolution is not a pacifist pink tea affair. A revolution is the reaction against the oppression of ages, and a violent reaction at that. As such it involves, necessarily, force and violence. It will be the great marvel of the future that this most momentous of all revolutions has been accomplished with comparatively so little violence, but has, on the contrary, been characterized by the greatest forbearance toward the hereditary tyrants, the most wonderful tolerance and kindest humanity.

It is capitalist atrocities and governmental tyranny that produce crime and violence in time of peace, wholesale slaughter in war, and culminate in violent revolutions. Revolution is inherent in every social system based on slavery, and only the abolition of the system itself will usher in an era where force and violence will be things of the past.

Those that pretend to loathe violence and yet permit present conditions to continue, are in reality directly responsible for the perpetuation of the evil.

Russia is now by no means in a normal condition where our heart's desire of universal peace and brotherhood can actually be practiced. The great passion to make the world fit for such conditions, to clear the way for them, is the supreme justification of the Lenins and Trotskys, and is at the same time the explanation of our support.

The proletariat of Russia has suffered and bled for centuries. At last they have overthrown Tsarism and got rid of their tyrants. Shall they now meekly submit to a new set of bloodsuckers fastening themselves on their vitals? The Constituent Assembly was the saddle of the bourgeois exploiters eager to climb upon the back of the Russian proletariat. Away with the saddle!

"But two wrongs don't make a right," exclaims the non-resistant.

Oh, my good man, when the patient's life is in grave danger, the surgeon is justified—nay, it is his sacred duty—to perform an operation.

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MOTHER EARTH BULLETIN

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A Greeting

Dear Comrade:—

Your letter has found me way up here among the hills, and it has burst open the door of a chamber in my heart from which long pent-up thoughts rush out tumultuous, irresistible. For months I have been out of touch with the world—the world of struggle, of striving, of achievement. My beloved teacher has been ill. * * *

We have been reading everything we could lay our hands on, and trying to catch up with the world. It is somewhat of a race; for as you know, things are moving very rapidly just now. Among other things we read of your arrest and "farcical trial." My heart was troubled, and I wanted to do something and I was trying to make up my mind what to do when your letter came. * * * Believe me, my very heart-pulse is in the revolution that is to inaugurate a freer, happier society. Can you imagine what it is to sit idle in these days of fierce action, of revolutions and daring possibilities? I am so full of longing to serve, to love and be loved, to help things along and to give happiness, it seems as if the very intensity of my desire must bring fulfillment. But alas, nothing happens. I sit out here among the quiet hills under the pines and READ about the things I long to do with my whole heart. I cannot keep the pang of bitterness out of my reflections these days. Why have I this passionate desire to be part of a noble struggle when fate has sentenced me to days of ineffectual waiting? There is no answer. It is tantalizing almost to the point of frenzy.

But one thing is sure, You can always count upon my love and support. Those who are blinder than I because they refuse to see tell us that in dangerous times like these wise men hold their tongues. But you are not holding your tongue, nor are the I. W. W. comrades holding their tongues—blessings upon you and them—"Keep out of their vulgar brawls," beg those who are near to me in blood, but not in spirit. "Vulgar brawls"—that is what they call your efforts to raise up those whom the cruel system under which we live has beat down and crushed. No, comrade, you must not hold your tongue. Your work must go on, even though all earthly powers combine against it. Never were courage and fortitude so terribly needed as now. Society on the war-path is an unmitigated ruffian. It knocks down every decent sentiment and noble ideal in the human heart, and regards those who retain the capacity to think as "slackers," traitors, cowards.

You have been arrested and condemned to the penitentiary for "obstructing the operation of the military laws of the United States." What did you really do? You spoke and wrote openly against conscription—against forcing men to fight, whether they wish to or not. Your magazine was confiscated without any reason being given you for holding it up. Other radical and Socialist papers have been suppressed, and in some instances the editors arrested without warrants. Meetings have been broken up, literature burnt in the streets, citizens beaten and shot because they dared speak against militarism. When we consider the lynching of Frank Little in Butte, the lawless deportation of the miners from Bisbee, the

expulsion of Fred Moore, the attorney for their wives and children, and the shameful "frame-up" in the Mooney case, we cannot but realize the need of brave men and women to protest against such despotism. How can there be a democracy unless people think and speak their minds freely—unless the minority is treated with tolerance and justice? All the outrages I have enumerated are the negation of every principle of democracy, and we are told that we must enter the Great War in order to make the world safe for democracy.

We frequently hear it asserted that this country does not want you or your kind—meaning those who oppose the ruling classes, those who fight against governments and authorities and the police for liberty and the elimination of poverty. You are told that this is a country of law and order where free men live. Are men free in a land where ten million Negroes are exposed to disenfranchisement, eviction and lynching? Are men free when whatever the workers have got has been wrested from employers by strike after strike? Was it law and order to deny you bail? It is law and order to break up meetings of protest, to suppress publications that voice the opinions of the people? All the atrocities of this impious war are committed in obedience to law and order. It would be considered treason if any man in the armies of the countries at war refused to perpetrate these crimes at the command of his superiors. Behold the ruin of European civilization. It was accomplished in the name of law and order. * * * The light of the spirit is more important to a people than a hundred victories. He who destroyeth that light kills more than the body politic—he slays the nation's soul. Yes, comrade, America has need of you and your kind. Long may you abide among us until your mission is fulfilled.

My heart aches for the people of all the nations. They do not hate one another. They do not want war. They want peace and liberty to enjoy the fruits of their labor. I have traveled the length and breadth of the land, and I know that the people want peace. I am told on good authority that the people of Great Britain, Germany and Russia want peace. They would rejoice in a peace without victory. What military victory could compensate them for this terrible waste of human life and treasure? * * * We know that words once spoken will make their way. Although they fall upon the stony ground watered with tears and blood, yet they will spring up, and great shall be the harvest. They may imprison you, they may kill you; but the ideas for which you and my other comrades do battle are indestructible. In the years to come you will be honored and loved for a devotion to humanity that life could not tire, or death quench, or calumny shake. When the veil of prejudice and ignorance is torn away from the eyes of men, and they see with the sight God has given them, they will wonder at the blindness and stupidity of the generation that put such a woman in jail. For they will then see as I see now what you stand for.

I send you greetings from the everlasting hills—glorious symbols of the Eternal God that shall prevail. With a love that grows as I know more of you, I am,

Faithfully your comrade,

Helen Keller

The Emma Goldman Papers

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MOTHER EARTH BULLETIN

January, 1918

Books on War and Militarism*

UNDER FIRE, by Henri Barbusse. E. P. Dutton & Co., New York (\$1.50).

The author, a soldier in the French army, relates what he saw and experienced in the trenches. He writes as a keen observer of conditions and men who is not blinded by national hatreds and prejudices. The soldier he knows from intimate personal acquaintance is not the soldier of the bragging patriotic newspaper brand, who is described as most willing to split the head of the enemy, because he is imbecile enough to believe what he read in the paper, namely, that this enemy is the "outcast of the universe." Barbusse's soldiers are men, "good fellows of all kinds, rudely torn away from the joy of life. Like any other men whom you take in the mass, they are ignorant and of narrow outlook—disposed to be led and to do as they are bid." They act under the instinct of self-preservation and cling desperately to the hope of pulling through. One of them, Volpatte, has both his ears nearly shot off. It makes him happy. He says to a comrade: "Old man, it's a good wound after all. I shall be sent back, no mistake about it." Faradet, of the same squad, remarks on this occasion: "At the beginning it sounded comic when I heard them wish for a good wound. But all the same, and whatever can be said about it. I understand now that it's the only thing a poor soldier can hope for if he isn't daft."

Life in the trenches consists chiefly of dirt, stink, and lice, and when the squad is sent to a village to rest up and the soldiers are just dying to find a little comfort for themselves, the answer is: "No—you see, I've got officers—under officers, that is, you see, it's the mess for the band and the secretaries, and the gentlemen of the ambulance."

The nation demands your life, but the spoils belong to your superiors.

A GERMAN DESERTER'S WAR EXPERIENCE.—B. W. Huebsch, New York (\$1.00).

Fourteen months the writer endured it on the western front, compelled to fight and to march with his regiment through burning cities and villages, the fleeing inhabitants of which scatter in all directions. Then he succeeded in making his escape into Holland, and from there arrived in a coal-bunker on these shores. As a civilian he is a miner, a working man opposed to the war from the very beginning. What he learns of its beastly practice teaches him that he was right—thousand times right—in his opposition. When the mobilization orders came the soldiers did not know who was to be the enemy. Even after the human cattle had already been entrained for the shambles, nobody took the trouble to give any information. They came very close to the Belgian frontier before they were told by their captain that the Belgian was their enemy. "If we had been told," says the author, "the Hollander is your enemy, we would have been compelled to believe it, and would have shot him by order, for they give us our enemy and our friend according to the requirements of their own interests."

Sometimes it happens that this state of

*To be had through Mother Earth Publishing Association.

affairs does not create enough enthusiasm among the soldiers for the killing and burning business. Then the singing of patriotic songs may enliven them. But the company, tired and footsore, is not in a mood to sing. Up steps one of the officers and shouts at the men, "I tell you sing, you swine!" And the "swine" obey and sing, miserably though it sounds. There you have the wonderful discipline, the virtue, and the manhood of military life!

The revolutionary philosophy of the Boylsheviki may find a large field for action if Germany has many more young workingmen who hold opinions and convictions similar to those of the German soldier who wrote this book.

* * *

MILITARISM.—By Karl Liebknecht—B. W. Huebsch, New York (\$1.00).

This book, translated from the German, is anti-militaristic from every point of view. It is not a pacifist treatise. Its arguments are those of the social revolutionist who knows that wars are the logical results of international capitalistic competition, and who is absolutely opposed to militarism because it has ever been the tool of the ruling classes to keep the proletariat in submission. By giving many examples of bloody military interference in strikes, etc., taken from the modern history of monarchies as well as of republics, the writer furnishes irrefutable evidence on this point. The American reader's attention may be especially called in this connection to pages 140-147. Considering that the German original of the book was published about eleven years ago, when talk of world peace and disarmament was much abroad, Liebknecht proved himself a prophet when he scornfully dismissed the twaddle of bourgeois pacifists a la Carnegie: "All the alleged plans for disarmament are thus seen to be for the present nothing but foolery, phrase-making and attempts at deception. The fact that the Tsar was the chief originator of the comedy at The Hague puts the true stamp on all of them."

The strongest features of the book are those parts which deal with the professional war promoters, the Krupps, Stumms, the Metal Trust, Powder Trust, etc. Karl Liebknecht's undaunted courage has earned him the special hatred of the German government. He was arrested after having spoken at an antimilitarist demonstration, and in the summer of 1916 he was sent to the penitentiary for four years and one month. High treason it was, the Court said—the usual reward in these days for those who love humanity and champion the cause of labor.

The three books make very good reading.

A Letter

(Conclusion)

Years have passed since. The object of my dreams has become a naked reality. I am in America, among Americans, and in American schools. I am learning the American ideals, customs, and traditions.

But alas! The same phrase I heard fifteen years ago from the Russian Captain,

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MOTHER EARTH BULLETIN

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telling me to get out of the land if I don't eat pork, I hear now repeating itself in just a slightly modified form: "If you don't like this land, you should get out of it!" To be sure, it comes no longer from a Russian Captain, but from a member of an American board of education, who wishes to deprive Mr. Moore of his diploma because he dares to stand firm for what his conscience tells him to be right. Think of it! Freedom of conscience, which was practically the watchword for the founders of this Republic!

Granting that Mr. Moore has committed a political offense, and disobeyed the law, the law provides the punishment, and Mr. Moore was perfectly aware of it, and submitted quietly and unresistingly.

There is no disgrace in being a political offender. We do not condemn O'Connell, Skeffington, Casement, of Ireland, who were executed in the most cruel and brutal manner, even though they were political offenders. Nor do we condemn Warren Hastings, John Brown, Garibaldi, Joan of Arc, Mme. Breshkovsaya, and hundreds of others, too numerous to mention. Not even Germany's '48ers. The greatest men in the world's history were for some reason or other political offenders. Even George Washington broke the laws of King George. But, as one of the members of the school board said: "*He* got away with it."

Mr. Moore has not stolen anything, nor has he robbed anyone, nor has he murdered anyone. He simply chose the alternative which the law provided for everyone who wanted to choose it, *i. e.*, register or go to jail.

Yet along comes a member of the honorable school board and states, "It would be improper to confer a diploma on a criminal under his present circumstances," and "Let us wait until all disability is removed."

To my question whether "forced registration" would be considered as removing the disability, it was emphatically answered "No! All he (Mr. Moore) will have to do is register." Very well, then; where is the difference between the "forced registration," which our government will ultimately bring to bear upon Mr. Moore, and the "voluntary registration" which the honorable board demands of him *in order that he should get his diploma?* I confess that I do not see the difference, and I am inclined to think that neither do the gentlemen. It is simply the alternative of "eating the pork or of getting out of the land."

MAURICE FRUCHT.

History To Be

Current events are chronicled, primarily, by newspaper reporters—persons, generally, of no superior intelligence, and selected chiefly for their "instinct for news" and the knack of securing a "scoop." Superficiality in observation, inadequacy of understanding, exaggeration, and even downright misrepresentation are the main characteristics of such description. Thus the press at the very outset often turns a false light upon events of importance, and the reading public becomes the unconscious victim of misinformation. The reader is still further deluded by the editorial bias which interprets important events from the narrow viewpoint of the particular group interests the editor happens to serve and often share.

Special contributors, magazine writers, etc., though of superior understanding than the average reporter, unfortunately but inevitably approach their task of investigation already influenced in some degree by the initial newspaper misinformation and the public atmosphere of prejudice already formed.

Subsequently a history of the event is written, based on contemporary chronicles and "data," and that is the reason why most of so-called history is so positively and mischievously false.

Vide the terrible judicial assassination of the pioneer idealists of America, in Chicago, in 1887, written down in American "history" as a "riot on the Haymarket that caused the death of a number of police officers, the murderous perpetrators expiating their crime on the gallows."

True history will be written only when the struggle of the classes will have been abolished, and no social group will be vitally interested in distorting the truth and misleading the people.

FUNDS

Money collected at E. G. lectures in Chicago and Detroit for the following purposes:

For the use of the I. W. W. prisoners in Cook County jail: Chicago, \$216.50; Detroit, \$76.00. Amount turned over to the Non-Partisan Radical League, Chicago.

For the Italian Victims of the Milwaukee Frame-up: Chicago, \$175.50; Detroit, \$76.00. Amount turned over to Secretary Checki and Judin.

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January, 1918

For the Appeal of Louise Oliverau: Chicago, \$21.50; Detroit, \$139.00.
Appeal for Comrade Levine: Chicago, \$25.00.

MOTHER EARTH BULLETIN Sustaining Fund: Chicago meeting, \$75.00; Banquet, \$59.00. Promised pledges for Sustaining Fund, \$40.00.

Campaign for Amnesty for the Political Prisoners in America on conclusion of Peace: Detroit, \$167.60.

\$170.00 collected in New York City for the I. W. W. was given as follows: Elizabeth Gurley Flynn, for trip to Chicago in re New York cases, \$150.00; for care of boys in Cook County jail, \$20.00.

**Will you help maintain the
BULLETIN while we are in prison,
and at the same time aid the prop-
aganda?**

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The Emma Goldman Papers

[Goldman & Berkman v. United States: Petition for] Rehearing [1918 Jan. (draft)] / [Harry Weinberger]. — 3 p. ; 34 x 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger writes a rough draft of his petition for a rehearing before the Supreme Court in Goldman and Berkman's appeal.

Notes: Portions illegible. Draft of 850806219.

Rehearing

(1) Petition - must be printed briefly & distinctly state its grounds. supported by cert of counsel.

Cannot argue unless a justice who concurred in the judgment dissents or a majority of the court so determines.

Brief printed full on suggestion of the format that

Ecc form New Orleans - Walker
176 U.S. 92 (44 C. 25385)

The effect of granting a rehearing is to make a case stand as if no judgment had been entered in the court of review

The court though stating that ~~errors~~ were charged with violating Sec 33 and 332 of the Criminal Code, etc. wholly overlooked and gives no effect to the ^{Sec 332 of the Criminal Code} requirement ^{for the purpose of} of a conviction or further proceeding stating a crime in an indictment where one of the Secs alleged to have been violated is Sec 332 of the Criminal Code.

If Sec 332 had been omitted, the indictment would have been a ^{Sec 332 as it matters} conspiracy indictment. But ^{Sec 332 as it matters} with Sec 332, which makes conspiracy's principal, and the court in its opinion does not consider the ^{allegation} ~~requirements~~ necessary in an indictment ~~to charge~~ ^{to charge} ~~errors~~ ^{errors} ~~defects~~ ^{defects} with violations

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The Emma Goldman Papers

[Goldman & Berkman v. United States: Petition for] Rehearing [1918 Jan. (draft)] / [Harry Weinberger]. — 3 p. ; 34 x 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger writes a rough draft of his petition for a rehearing before the Supreme Court in Goldman and Berkman's appeal.

Notes: Portions illegible. Draft of 850806219.

...ing principle as a matter of fact. Some effort must be given to Sec 32, ignoring it, does not answer the contention, and I am for fully such that I be allowed to argue this contention. Calling it a conspiracy indictment does not make it one, no more that ignoring Sec 37, would be proper. The indictment, to give proper effect to each ^{fact}, ^{as alleged to have been} should read that defts conspired to become and did become accessories ^{to the} fact, and that the fact did happen that a principal failed to register because of the ~~defendants~~ defendants. The indictment should have alleged the person or persons who failed to register. The evidence should have shown it as a fact. ^{that the indictment did not state as a fact, and the evidence did not prove it} ~~that the~~ ^{the} defts were not "informed" ^{of the nature and cause of the accusation} as required by the Constitution & fully stated by this Court in United States v. Cruikshank. ~~all the~~ ⁱⁿ ~~the~~ ^{of} 92 U.S. 542, The court mistakes my argument entirely, that when it states that I contended that ^a ~~the~~ crime, ^{of conspiracy} was not committed because ~~it~~ ^{if} the illegal end was not accomplished. ^{even if said end were proven} I contended, and desire to reargue so as to more fully and plainly ^{respectfully} show to the court that the indictment was not a conspiracy indictment, ~~but~~ but one charging defts as principals, ^{as principals} ~~being~~ ^{being} accessories, and therefore there must be an accessory indictment after illegal end, before a crime can be proved or as ^{proper} indictment found.

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[Goldman & Berkman v. United States: Petition for] Rehearing [1918 Jan. (draft)] / [Harry Weinberger]. — 3 p. ; 34 x 22 cm.

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Summary: Weinberger writes a rough draft of his petition for a rehearing before the Supreme Court in Goldman and Berkman's appeal.

Notes: Portions illegible. Draft of 850806219.

My contentions concerning an asserted
misuse of discretion by the court before
me when on an application to postpone the
trial, which was not referred to in the assign-
ment error.

When it is considered that the depts
were immediately sent to jail at the
end of their trial, ~~and~~ ^{which was} contrary to the
unvarying practice in all Ind. Dist.
Courts, and the ^{trial judge} ~~court~~ refused to
grant a ^{stay or} writ of error, so that the
affliction for a writ of error & the filing
of the assignment of error in order to
obtain depts release ~~was just today~~

facts be done hurriedly, today
and ~~all~~ without the ^{proper notice} record of the trial.
yet the error is so plain, and the
injustice so great, that under the
decision of this Court, which I would
fully submit on a re-argument, it was
the duty of the Supreme Court to reverse
the conviction because of the misuse
of the discretion by the court below
in refusing an application to set aside
that time in order ^{to pay} to pay fines & become
apt Berkman as shown by letters
submitted to the Court before
was imposing physical agony.

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The Emma Goldman Papers

[Agent Report I]n re: I.W.W. Matters, St. Louis, Mo., 1918 Jan. 2 [excerpt] / [Louis] Loebl [Agent? Bureau of Investigation, Department of Justice]. — 2 p. ; 32 x 18 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 165.
 Summary: Loebl reports on anarchist activities in St. Louis. He is watching S. Beyer and his wife, who are in close touch with Goldman. Goldman is expected to speak in St. Louis on January 15, 1918.
 Notes: For follow-up report, see 810402040.

JAN 7 1918		OFFICE CHIEF OF STAFF WAR COLLEGE DIVISION	
106bl	PLACE WHERE MADE: St. Louis	DATE WHEN MADE: 1-2-18	PERIOD FOR WHICH MADE: 12-31-17 1918
AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: re: I.W.W. Matters.		WAR DEPARTMENT	

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.

In St. Louis, Missouri.

Special Agent in Charge Brennan is in receipt of two anonymous reports stating that anarchists have their headquarters at 940 Chouteau Avenue and also at 819 North 15th St. in this City.

Employee inquired at 819 North 15th St and found that a private family lives there and has a Red Cross insignia on the window. No anarchists are known in that vicinity? There are a few Russian Jews on Franklin Avenue and Carr Street having the reputation of being anarchists, but they keep silent and don't do any agitating now. S. Beyer at 1610 Franklin Ave and his wife are in close touch with Emma Goldman and are being watched by employee.

The place at 940 Chouteau alleged to be headquarters of anarchists, is well known to employee. George A. Hoehn who after participating in the Haymarket riots in 1886 came to St. Louis, and started the "St. Louis Labor" and the "Arbeiter Zeitung" conducts a printing shop there under the name of "The Cooperative Publishing Company" The halls are rented by the St. Louis Socialist Party of which W.M. Brandt is the secretary Hoehne is nothing else but a grafting socialist trying to sell stocks to the various labor organizations and to raise \$200,000. to start the "St. Louis Herald", a socialist paper.

Employee is keeping an eye on these fellows.

COPY OF THIS REPORT FURNISHED TO:

Chicago Office.

• 7-377

The Emma Goldman Papers

[Agent Report I]n re: I.W.W. Matters, St. Louis, Mo., 1918 Jan. 2 [excerpt] / [Louis] Loeb [Agent? Bureau of Investigation, Department of Justice]. — 2 p. ; 32 x 18 cm.
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#28

purpose, he has already secured the assistance of Polish, Lithuanian and Bulgarian organizers; he asked Callahan if he wouldn't undertake going to work there and do the inside organizing. Callahan seems to be familiar with the conditions at the American Steel and Foundry Company and will think the matter over.

Emma Goldman, the anarchist, will come to St. Louis and speak at a mass meeting on or about January 15th. No definite arrangements have as yet been made but Varney expects to make this a big "eye opener".

Varney is in close touch with the Chicago element and also with most of the rebels in the different parts of the Country and is well posted of their doings and future plans.

Employee had occasion to read a letter which Sibilski, a non-member, but rabid I.W.W. received from Mrs. K.L. Leonard of Kansas City, Missouri. Employee has dwelt upon the agitations of this woman in his report of September 26. Mrs. Leonard formerly secretary of the Omaha Local, was sent to Kansas City by General Secretary, Thomas Edwards of Local #400 (Agricultural Workers Union) At Minneapolis, to do some organizing and to keep alive the I.W.W. spirit there after the I.W.W. halls were raided. She lived at several places since then and has done considerable agitating under the pretext of representing the Peoples Welfare Association. She changed her name lately and receives now her mail under the assumed name of Mrs. S. Sherman, 1304 East 8th Street, living on the second floor in room #5 at the above address. According to her letter, her place is open to wobblies passing through Kansas City and she has several literature and delegates' outfits for organizing purposes in her possession. She is very anxious to remain under cover and requests the addressee to destroy her letter after it served its purpose.

COPY TO was greeted with cheers

M. I. B. FILE NO.

The Emma Goldman Papers

[Report on I.W.W.] Anarchists[- Pacific Coast] Los Angeles, 1918 Jan. 2 / [Agents] 101 and 102 [Military Intelligence Division, War Department]. - 2 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Undercover agents 101 and 102, who have infiltrated the anarchist community in Los Angeles, describe the relationships between Fitzgerald, Goldman, Berkman, and Reitman. They state that the government is using Fitzgerald as bait to catch other radical leaders.

Notes: Broken type.

Jan 2, 1918, Los Angeles, Cal. Enc. 1
RECEIVED BY DIVISION
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Subject: Los Angeles Anarchists.

We have been in daily association with our anarchist friends for the last week, several dinners and entertainments of different kinds. Monday night, December 31st, we had a gathering at our own home of many of the leaders, and a few new ones whom we had not met before, among them being a Miss Eileen Maxwell, who is employed as a reporter on the newspapers, and is now working for a labor publication here, an artist named Ben D'verts, who is a radical, and another man named Taylor, whose occupation we did not learn. Another of our guests was a cousin of Emma Goldman, named Harry Cummings, who has a brother and sister in New York City who are closely identified with Emma Goldman and her organization, and who were recently mentioned in the newspaper accounts of arrests made in New York. They were not arrested, but were mentioned in connection with the meetings, both taking an active part, the brother goes by the name of Cummings, but the sister, whose name is Stella goes by the name of an actor whom she married, his name we did not learn. Harry Cummings the cousin here is associated with all the radicals in this community, and is on confidential terms with them, but he has a good position with a mercantile establishment and takes no part in radical affairs, and is against their propaganda of revolution and ~~disorganization~~ destruction, but being a cousin of Emma Goldman we find he is a good subject to know, and an agent through whom we can meet the Radicals and get close to them.

We have gathered information as follows: A man named Shippey, who was for years a resident of Los Angeles, and an active worker here through the Reds, is a now war correspondent in Europe. Our informant thinks he must be employed by the Government as he has two children here by a girl named Clara Helene, with whom he formerly lived, and who now has a music studio in the De Baker Block, Los Angeles, and these children are drawing a part of his pay, which they think he is forced to give up. This man Shippey they claim is in a position where he has many military secrets, and in possession of valuable information, and that he will find some way to get this to the Russian Bolsheviks or any other Radical Organization where it could be used to advantage of the organized forces back of the war. He is a known Radical they designate as a Red and would be dangerous wherever intrusted with war secrets. Mrs. Perry McCullough, with whom Miss Fitzgerald, commonly called "Fitzie", at one time lived, informs us that Miss Fitzgerald is now in New York City, making her headquarters at the Mother Earth offices, 226 Lafayette Street, and is publishing a small pamphlet or bulletin which she is circulating among the "Mother Earth" subscribers, since that paper was denied the mails. She corresponds with a Miss Gertrude Barrett, whom she keeps informed on many matters of importance, and may be using her as an agent to distribute her suppressed publications here. Miss Barrett speaks of hearing from Miss Fitzgerald every week, and seems to be very close to her. Miss Fitzgerald was formerly associated with Ben Reitman before they became Radicals, after joining the Radical movement, Emma Goldman took Ben Reitman away from Fitzie, as a lover, but they continued friends and co-workers until finally Alexander Berkman succeeded Ben Reitman as Emma's lover and then Fitzie took Alexander Berkman away from Emma Goldman, because of this ~~the~~ and because of the power and influence Fitzie gained over the Radicals of the country, Emma has never really forgiven her but is in a position where she dare not declare open warfare against her. Our informant says that Fitzie is in some ways a greater power among the Radicals than Emma, that she is absolutely fearless, is a good writer, a fairly good speaker, and has been named "The Lioness" among her followers. She does most of her effective work in secret council and in a quiet way, and is one of the principal advisors in all the big things undertaken.

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The Emma Goldman Papers

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Notes: Broken type.

Jan 2 report Los Angeles Anarchists No. 2

They claim that the reason Fitzie has not been arrested is that the Government is using her as a bait with which to catch the other leaders, but that a system has been arranged whereby the real leaders are kept in close touch with her, without danger of detection by the Federal Agents.

Respy.

Mos. 101 - 102

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The Emma Goldman Papers

[Telegram] 1918 Jan. 2, Phila[delphia to James D. Maher] Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 13 × 17 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 267.
Summary: Weinberger notifies the Supreme Court clerk that his train was delayed on his way to file a motion for a supplemental brief in Goldman's appeal.
Notes: For copy, see 810206029.

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	DL
Night Message	NL
Night Letter	NL

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

WESTERN UNION

TELEGRAM

NEWCOMB CARLTON, PRESIDENT GEORGE W. E. ATKINS, FIRST VICE PRESIDENT

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	DL
Night Message	NL
Night Letter	NL

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

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WASHINGTON DC

TRAIN SEVEN HOURS LATE MOTION TO FILE SUPPLEMENTAL BRIEF TODAY

GOEDMAN CASES

HARRY W. EINBERGER

255P

Altogether
Jan 2 1918

The Emma Goldman Papers

[Telegram] 1918 Jan. 2, Philadelphia [to James D. Maher] Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 14 × 18 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 267.
 Notes: Copy of 810206028.

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Night Letter		

WESTERN UNION
TELEGRAM

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DC PHILADELPHIA PENN 1128A 2
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 1834
 WASHINGTON DC

TRAIN SEVE HOURS LATE MOTION TO FILE SUPPLEMENTAL BRIDGE CASE
 GOLDMAN CASE

HARRY WEINBERGER.
 374 PM

Telephone 2534
 Telephoned to post office
 Time Delivered 6:00 PM
 By C. F. To St.
 Attempted to Deliver

OFFICE OF THE CLERK
 RECEIVED
 JAN 3 - 1918
 SUPREME COURT U.S.

ST-UN-3 PM 5:56

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The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Motion to File Supplemental Brief [1918 Jan. 2] / Harry Weinberger. — 3 p. ; 36 x 21 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger asks the Supreme Court for permission to file a supplemental brief to argue the effect of the Fourteenth Amendment on the federal power of conscription.

Notes: Enclosed with 810113180. For brief mentioned, see 871211001. Bracketed date assigned incorrectly by Yale University Library.

1917 Oct ?

IN THE SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1917.

-----X
EMMA GOLDMAN and ALEXANDER BERKMAN,

Plaintiffs-in-error,

- against -

UNITED STATES OF AMERICA,

Defendant-in-error.
-----X

No. 702.

TO THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF NEW YORK.

MOTION BY EMMA GOLDMAN AND ALEXANDER BERKMAN
TO FILE SUPPLEMENTAL BRIEF.

Come now HARRY WEINBERGER, attorney for Emma Goldman and Alexander Berkman, plaintiffs-in-error and respectfully moves the Court for leave to file a supplemental brief in this case commonly known as the "Selective Draft Law Case."

While the brief for the plaintiffs-in-error and the brief for the United States of America fully covered the law in reference to the constitutionality of the Draft Law, neither the plaintiffs-in-error's brief or the Government's brief considered in any way the effect of the Fourteenth Amendment to the Constitution, which makes citizens of the States citizens of the United States, and as to whether that Amendment conferred upon the National Government any enlarged powers and the right directly to conscript citizens.

From some of the questions asked by the Court on the argument, the Fourteenth Amendment may have a material effect on the decision of the Court in this case, and because of the importance of this case to the Government and to the plaintiffs-in-error, it is respectfully requested that the plaintiffs-in-error be permitted

-1-

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The Emma Goldman Papers

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Goldman [&] Berkman [v.] United States: Motion to File Supplemental Brief [1918 Jan. 2] / Harry Weinberger. — 3 p. ; 36 × 21 cm.

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to file a supplemental brief.

Notice of this motion has been served on the
Solicitor General with a printed copy of the supplemental
brief proposed to be filed.

HARRY WEINBERGER,
Attorney for plaintiffs-in-error,
Emma Goldman and Alexander Berkman.

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The Emma Goldman Papers

8200000212

Goldman [&] Berkman [v.] United States: Motion to File Supplemental Brief [1918 Jan. 2] / Harry Weinberger. — 3 p. ; 36 x 21 cm.

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Notes: Enclosed with 810113180. For brief mentioned, see 871211001. Bracketed date assigned incorrectly by Yale University Library.

NOTICE OF ENTRY

Sir:—

Please take notice that the within is a true copy of a _____ this day duly filed and entered in the office of the Clerk of the _____

Dated, N. Y., _____ 191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR _____

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To _____ Esq.

ATTORNEY FOR _____

NOTICE OF SETTLEMENT.

Sir:—

Please take notice that an order of which the within is a true copy, will be presented for settlement and entry herein to Mr. Justice _____

at _____ of

this Court at _____

_____ in the Borough of

_____ in the City of New York,

on the _____ day of _____ 191

at _____ o'clock, in the forenoon or as soon

thereafter as Counsel can be heard.

Dated, N. Y., _____ 191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR _____

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To _____ Esq.

ATTORNEY FOR _____

CLERK'S INDEX NO.

YEAR

IN THE SUPREME COURT OF THE U.S.

OCTOBER TERM, 1917.

EMMA GOLDMAN and ALEXANDER
BERKMAN,

Plaintiff S

in-error,

against

UNITED STATES OF AMERICA,

Defendant

COPY

NOTICE OF MOTION.

HARRY WEINBERGER

ATTORNEY FOR Pltffs.-in-error,

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To _____ Esq.

ATTORNEY FOR _____

Due and timely service of a copy of the
within _____

is, hereby admitted.

Dated, N. Y., _____ 191

Attorney for _____

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191

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Supplemental Brief [1918 Jan. 3] / Harry Weinberger. — 8 p. ; 25 × 17 cm.

Obtained from the University of California, San Francisco. Institutional Location: Hastings College of the Law.

Summary: Weinberger argues that the Fourteenth Amendment does not give the federal government any added powers of conscription.

Notes: For original brief, see 871211000.

FILE COPY

JAN 3 1918

Supreme Court of the United States

OCTOBER TERM, 1917.

EMMA GOLDMAN and ALEXANDER
BERKMAN,
Plaintiffs-in-Error,

against

No. 702.

THE UNITED STATES,
Defendant-in-Error.

SUPPLEMENTAL BRIEF.

HARRY WEINBERGER,
Attorney for Plaintiff-in-Error,
261 Broadway,
Borough of Manhattan,
City of New York.

HARRY WEINBERGER,
Of Counsel.

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192

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INDEX, SUPPLEMENTAL BRIEF.

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Van Valkenburg v. Brown, 43 Cal., 47.....	3

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Plaintiffs-in-Error,

against

THE UNITED STATES,
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702.

Supplemental Brief on Behalf of the Plaintiffs-in-Error.

While the brief for the plaintiffs-in-error and the brief for the defendant-in-error fully covered the law with reference to the question of the unconstitutionality of the Selective Draft Law, neither brief considered in any way the effect of the Fourteenth Amendment to the Constitution, which makes citizens of the States citizens of the United States, and as to whether that Amendment conferred upon the National Government any enlarged powers and the right directly to conscript citizens of the United States.

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Notes: For original brief, see 871211000.

POINT I.

Conscription is not authorized by the Fourteenth Amendment to the Constitution.

Article XIV, Section 1, reads as follows:

"All persons born or natr.alized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No States shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The purpose behind the adoption of the Fourteenth Amendment was the reversal of the results of the decision in the *Dred Scott* case. The first section of the Amendment, without making any direct reference to the question of race at all, contains a definition of citizenship of the United States.

In the case of *Re Kemmler*, 136 U. S., 436, 448, Chief Justice Fuller said:

"The Fourteenth Amendment did not radically change the whole theory of the relations of the State and Federal governments to each other, and of both governments to the people. The same person may be at the same time a citizen of the United States and a citizen of a state."

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Notes: For original brief, see 871211000.

In *Civil Rights Cases*, 109 U. S., at p. 19, Mr. Justice Bradley said:

"The first section of the Fourteenth Amendment * * * after declaring who shall be citizens of the United States, and of the several states, is prohibitory in its character, and prohibitory upon the States. * * * It is State action of a particular character that is prohibited."

In *Strauder v. Virginia*, 100 U. S., 303, Justice Strong said:

"This (the Fourteenth Amendment) is one of a series of constitutional provisions having a common purpose; namely, securing to a race recently emancipated, a race that through many generations had been held in slavery, all the civil rights that the superior race enjoy. The true spirit and meaning of the amendment, as we said in the *Slaughter House Cases* (16 Wall., 36), cannot be understood without keeping in view the history of the times when they were adopted, and the general objects they plainly sought to accomplish."

In *Ex parte Plessy*, 45 La. Ann., 80, the Court said:

"That Amendment (the Fourteenth), it is well settled, created no new rights whatever, but only extended the operation of existing rights and furnished additional protection for such rights. *Barbier v. Connolly*, 113 U. S., 27; *U. S. v. Cruikshank*, 92 U. S., 542; *Slaughterhouse Cases*, 16 Wall., 36."

See also, *Van Valkenburg v. Brown*, 43 Cal., at p. 47.

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In *Story on the Constitution*, 5th Edition, treating of the Fourteenth Amendment, written by T. M. Cooley, Judge Cooley said:

"Sec. 1943. The purpose of the statute was to give protection of the individual to the United States, not to increase its control.

Sec. 1968. Such are the provisions of the Fourteenth amendment. Important as they unquestionably are, it is nevertheless to be observed that they have not been agreed upon for the purpose of enlarging the sphere of the powers of the general government, or of taking from the states any of those just powers of government which in the original adoption of the constitution were 'reserved to the States respectively.' The existing division of sovereignty, which had been found equal to the preservation of our liberties, not only in times of peace and general harmony but in the trial of a most desperate civil strife, is not disturbed by it. * * * The states, in adopting it, have not struck blindly and fatal! at their reserved powers; they have rather given security that in certain important particulars they will not pervert or abuse them."

In a note Judge Cooley further says:

"The government is not revolutionized by the new amendments to the constitution; it is but adapted to new conditions. The dangerous excrescence of slavery has been cut off, and these are but to heal the wound."

The old idea of citizenship, to which justice and liberty were strangers, that a man is a slave of the State, was exploded in 1776, and finally disposed of by the establishment of our National Government. The right of the State to call upon citizens

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Summary: Weinberger argues that the Fourteenth Amendment does not give the federal government any added powers of conscription.

Notes: For original brief, see 871211000.

to repel invasion, suppress insurrection and enforce the laws is our heritage as well as our duty. But even that was limited, as the early history of our colonies and states show, so as not to include "conscientious objectors." (This is more fully developed in my original brief, and admitted in the Government's brief.) Our history shows that it was intended in establishing the National Government that wars of aggression should not be fought, and limitations were placed upon the National Government in reference to calling out the militia and limiting appropriations to two years.

We are not weak in the power of self-defense, even if the Selective Draft Act is declared unconstitutional—we should be impotent in the power of aggression and conquest. Our armics have served in all parts of the world and overseas—but always as volunteers. If drafting was made constitutional by the Fourteenth Amendment, some future President, drunk with the desire for power or conquest, could by his own actions force a war, conscript the nation, and the people would be powerless until another election, which might be two or four years later.

Before the Fourteenth Amendment, President Lincoln attempted to justify the Civil War draft under the power to call forth the militia, to suppress insurrection, repel invasion, and enforce the laws of the United States. That Draft Act was never passed upon by this Court. The Government in its brief did not dare, however, to attempt to justify the present Selective Draft Act on the same grounds that President Lincoln attempted to.

Since the Draft Law of the Civil War, the Thirteenth Amendment to the Constitution, against involuntary servitude, has been passed, and, as quoted in the Government's brief, President Lin

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The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Supplemental Brief [1918 Jan. 3] / Harry Weinberger. — 8 p. ; 25 × 17 cm.

Obtained from the University of California, San Francisco. Institutional Location: Hastings College of the Law.

Summary: Weinberger argues that the Fourteenth Amendment does not give the federal government any added powers of conscription.

Notes: For original brief, see 871211000.

coln said: "*The principle of draft, which simply is involuntary or enforced service, is not new.*" So that the Fourteenth Amendment, passed practically at the same period as the Thirteenth Amendment, cannot be even presumed to have repealed the other.

If the Fourteenth Amendment has not enlarged the powers of the National Government, the Selective Draft Law is unconstitutional upon the grounds fully set forth in my original brief.

Respectfully submitted,

HARRY WEINBERGER,
Attorney for Plaintiffs in Error,
251 Broadway,
District of Manhattan,
City of New York.

[13147]

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The Emma Goldman Papers

810331002

[Letter] 1918 Jan. 3, Washington [D.C. to] R[alph H.] Van Deman, Chief, Military Intelligence [Division, War Department], Washington, D.C. / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department. — 1 p. ; 27 x 22 cm. Obtained from the United States National Archives. Institutional Location: Record Group 165.
Summary: McCauley forwards a report that anarchists are now sending Goldman's mail to Stella Cornyn (Ballantine) in New York.
Notes: For original report, see 800519035.

NAVY DEPARTMENT
OFFICE OF NAVAL INTELLIGENCE
WASHINGTON

In reply refer to No. 2102093
OFFICE OF NAVAL INTELLIGENCE
WAR COLLEGE DIVISION
LCC:RIS/0110-555 4161
2-2 12
NAVY DEPARTMENT

CONFIDENTIAL.

January 3, 1918.

Dear Col. Van Deman:

This Office has recently received the following information from the Branch Office of Naval Intelligence at San Francisco in regard to Emma Goldman.

"Anarchists on the Pacific Coast have received word from New York to address all of Emma Goldman's mail in future to Stella Cornyn, 226 Lafayette Street, New York City."

This information has been forwarded to the Bureau of Information, Department of Justice.

Very truly yours,



Commander, U. S. Navy,
Assistant Director of Naval Intelligence.

Lt. Col. R. V. Van Deman,
Chief, Military Intelligence Section,
Army War College,
Washington, D. C.

Copy to Biddle

1/12/18

REC'D W. C. D. O. C. S. JAN 6 1918

REC'D W. C. D. O. C. S. JAN 12 1918

200

The Emma Goldman Papers

[Agent Report] In re: I.W.W. & Anarchist Activities, St. Louis, Mo., 1918 Jan. 4 /
Louis Loeb [Agent? Bureau of Investigation, Department of Justice]. -
7 p.; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Loeb investigated rumors of a plot to assassinate President Wilson and other leaders, but could find no links to Goldman or other anarchists. Loeb describes the activities of the St. Louis anarchists and notes that they had to cancel Goldman's lecture because no one would rent them a hall.

Notes: Reply to 880606024. Follow-up to 810402038.

REPORT FORM NO. 1

#2

JAN 9, 1918

CERTIFICATE

REPORT MADE BY:

Louis Loeb

PLACE WHERE MADE:

St. Louis

DATE WHEN MADE:

1-4-18

PERIOD FOR WHICH MADE:

1-2-18

TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION:

In re: I.W.W. & Anarchist Activities

OFFICE CHIEF OF STAFF

FIL. INT. BRANCH
EXECUTIVE DIVISION

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:

10110-228

WAR DEPARTMENT

In StP Louis:

Special Agent in Charge Brennan is in receipt of a letter from the Chief, under date of December 29, 1917 pertaining to some I.W.W. and Anarchist activities and particularly with reference to one H. Tichenor, ex-editor of the "Rip Saw" and H.L. Varney organizer of the Peoples' Council both of this City.

I have kept in close touch with these radical movements in this City since the past few months and reported on this matter from time to time. Assisted by confidential informant, I now made a further investigation and submit the following report on this matter.

H. Tichenor, who had his offices before at 703 Pontiac Building was until recently Associate Editor of the "Melting Pot" "Rip Saw" and "Social Revolutionist" and is well known as an ultra radical socialist. He severed his connections with these papers and moved to 940 Chouteau Avenue, where he will start the "Erehumanity" a weekly socialist publication shortly. 940 Chouteau Ave is the headquarters of the St. Louis socialist Party and of the Co-operative Publishing Company of which Hogane and Brandt, two well known socialists are the leaders. I reported on this particular matter on December 31, 1917. It was rumored several months ago that Tichenor made some remarks to the effect that President Wilson, the Secretary of War and other prominent men will be assassinated at a certain day and hour and at a certain secret signal in the near future. This rumor could not be traced

COPY OF THIS REPORT FURNISHED TO:

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The Emma Goldman Papers

810402040

[Agent Report] In re: I.W.W. & Anarchist Activities, St. Louis, Mo., 1918 Jan. 4 /
Louis Loebl [Agent? Bureau of Investigation, Department of Justice]. -
7 p.; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Loebl investigated rumors of a plot to assassinate President Wilson and other leaders, but could find no links to Goldman or other anarchists. Loebl describes the activities of the St. Louis anarchists and notes that they had to cancel Goldman's lecture because no one would rent them a hall.

Notes: Reply to 880606024. Follow-up to 810402038.

back to the originator at that time and the investigation was unable to find any connection between Tichenor and the anarchists. Several inquiries had been made by me since this time and while it was established that Tichenor was in close association with the Kate O'Hara and Eugene Debbs group, no evidence could be secured as to his being in contact with Emma Goldman rebels. Tichenor is a socialist of the most radical kind, but his anarchistic tendencies could not as yet be disclosed. A close watch will be kept on this man and his activities and reported upon in due time.

With reference to Harold L. Varney, soapboxes, organizer and agitator, several reports have been made showing that he undoubtedly is a rabid talker and fearless agitator. He lives with his mother at 2735 Clark Avenue, studied ministry in a Presbyterian Theological Seminary and came to St. Louis a few months ago. He was an organizer for the Peoples Council with office at 408 Commercial Building and in this capacity made several trips throughout Southern Illinois and Eastern Missouri with a view of getting the various unions, especially the miners' unions affiliated with his organization. To my knowledge, he succeeded in getting the Co-operation of the Holders Union in Belleville, and the Miners' Union in O'Fallon and Hillsboro, Ills, but at most of the places, he was not given a hearing. He distributed thousands of copies of "The Bulletin" without getting any results.

Worked under pretext of being an organizer of the "Peoples Council, distributing "The Bulletin", the official organ of the Council, myself in Belleville, Mascoutah, Coulterville and Christopher several weeks ago, but found that the miners were opposed to the "People Council, especially since it was ^a known fact that it operates in close connection with the I.W.W. Varney is a frequent visitor at the I.W.W. hall and is looked upon by the wobblies as

The Emma Goldman Papers

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Notes: Reply to 880606024. Follow-up to 810402038.

REPORT FORM NO. 2

4b

men who "Knows how to do things". Secretary Meyerson does not agree with him. I was present at several occasions when Varney sharply criticized Meyerson's educational policies, he being of the opinion that the time of educating the I.W.W.'s as to the purpose of the organization, is past and real action and deeds are what count. He is in great sympathy with the Bolshewiki movement in Russia and contributes their result to their theory of doing things instead of learning how to do them. He often expressed himself of being a revolutionist and promised to stir up things for the Peoples Council in St. Louis and vicinity and also to do some organizing in certain factories in East St. Louis, but it seems that he fell down on these promises. He expected to do some actual work during the winter and made considerable preparations with Miss Short, secretary of the Council, in outlining their program the main points of it being as follows:

1. To keep all the democratic forces in touch with each other in this time of crisis.
2. To circulate a weekly bulletin which shall publish the news which the daily papers refuse to print.
3. To carry on a constant campaign of publicity for democracy during war times and for an early peace.
4. To give support to and arrange defense for those individuals who have been or will be victimized or arrested for maintaining their constitutional rights.
5. To maintain propaganda groups in all neighborhoods of the City and in each suburban locality.

Varney sent out several hundreds of circulars asking for funds to maintain the office and to support the national headquarters in maintaining a permanent group of workers in Washington during the coming session of Congress. Notwithstanding this contemplated activity, the rumor went around that Varney is going to sever his connections with the Peoples Council to take up some other work. What "the other work" will be, I was as yet unable to

The Emma Goldman Papers

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Topics and that this work took up all of his time; on the other hand again, I believe that his resignation has something to do with his recent associations with some local anarchists. I reported previously, that Varney has been trying to do some organizing among the younger Russian Jewish radicals and also among the Lithuanian propagandists and I will be in a position to report shortly as to what progress he has made. The rumor of his resignation was only hear-say, until yesterday when Miss Edith M. Short, corresponding secretary of the Peoples Council was met, from whom it was learned that Varney had to resign on account of lack of funds and his failure to arouse among the labor miners sufficient interest in the organization. Miss Short stated that even the Committee had lost interest and courage and is afraid to maintain the office any longer, which will close up definitely on Jan. 15th, Varney's resignation taking effect immediately. Miss Short said that the committee first thought of running the office secretly but she does not think this will be done.

Confidential informant then accompanied me to the I.W.W. hall where Secretary Meyerson asked our cooperation in drawing up a circular letter to be distributed among the public and various organizations in order to arouse sympathy and raise funds for the defense of the prisoners in Chicago. Meyerson also asked me to be present at the next meeting, on Saturday Evening, January 5th, at which action on a very important letter will be discussed. This letter is dated December 26, 1917 from the Lumber Workers Industrial Union and reads as follows;

Fellow Workers:-

At a regular business meeting of the Spokane Branch of the I.W.I. U., #500, I.W.W. Sunday, December 23rd, 1917 (94 members present) the undersigned resolution committee was duly authorized to draw up and submit to all branches of Industrial Unions the following resolution;

The Emma Goldman Papers

810402040

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Notes: Reply to 880606024. Follow-up to 810402038.

"Whereas the continued persecutions of our members is still in progress, such as the arresting of our delegates and the raiding of our halls and the jailing of our active members because of their activity in behalf of the organization.

Therefore be it resolved that we, the members of the Spokane Branch of L.W.I.U. #500 go on record as favoring a 10 days General Strike of the entire I.W.W. beginning February 1st, 1918 and appeal to all members of the I.W.W. for their cooperation and

Be it further Resolved that we ask all members wherever there are sufficient numbers to hold special meetings immediately and

Be it further resolved, that all results shall be in the General Office of the L.W.I.U. #500 Box 2217 Spokane, Washington by January 10, 1918 if possible. and in total account of votes stating number of members voting for and against. Resolution Committee.

R.A. Brown, C.H. Rice

I. Hanson, H. Farnor,

M.E. Athey

(Ninety members out of a total of 94 voted for this resolution in Spokane.)

According to Secretary Meyerson's Statement, H.L. Varney had sent out copies of above letter to all Socialist Locals in St. Louis asking for their co-operation. Meyerson had drawn up a circular, making an appeal to Labor bodies and the Public to support the Defense by subscribing for the I.W.W. papers, i.e., "The Industrial Worker" and "The Defense News Bulletin" He sent a copy of this letter to Chicago just at the time the headquarters were raided and the mail confiscated and he expressed his fear that this circular fell into the hands of the Government officials.

There is a letter from the General headquarters, 1001 W. Madison St., Chicago Ills., on the Bulletin Board, under date of December 29, 1917 stating that the headquarters were in charge of the Federal Authorities up to the above date allowing the mail to be received but forbidding the answering of same and that on the above date the offices have been turned back to the membership and they were ready now for business. The letter was signed by Fred Harvey.

As to the membership, literature, on hand and general conditions at St. Louis Local #84 I.W.W. I have reported on December 30, 1917.

The Emma Goldman Papers

810402040

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Louis Loeb [Agent? Bureau of Investigation, Department of Justice]. -
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Notes: Reply to 880606024. Follow-up to 810402038.

With reference to Anarchist activities in this City, investigations from time to time disclosed the facts that the first group composed ~~mainly~~ of Russian Jews and Jewesses, made its appearance in the early part of 1915 when the St. Louis Relief Society for Political Victims in Russia was organized of which E. Potinsky, 1337 North Garrison Avenue was the Secretary. Shortly afterwards, 2 or 3 other small groups of anarchists got together and made the name of "Radical Group" and "Propaganda Group" respectively held meetings at 1907 Franklin St., 17th and Wash Street, 1012 Pine Street and in the Central and Cass branches of the Public Library. "The Open Forum" a camouflaged radical group has been holding meeting at 17th & Wash Street, lately, the majority of the members of the organizing committee like Dr. Caplan, Diefins, Miss Razowiky, Dietrich and Kelly being known as ultraradical uplifters whose ideas are not very far from anarchism. Max Cohan, 2732 Dayton St. who used to be the St. Louis representative of the "Blast", (Alexander Berkman's paper). J.M. Bluestone, credit man of Rosenthal & Sloan Millinery Company, lives at 4045 Cleveland Avenue, Henshaw a tailor at 1722 Carr Street, S. Beyer, a tailor, 1610 Franklin Ave., his wife, Sara Beyer, and Mrs. Minnie Fishman have been in close contact with Emma Goldman and her group; lately they haven't been meeting but very seldom and are most in communicative and careful. I was invited to an Anarchist supper on New Years Day which for good reasons preferred not to attend. Confidential informant, however, participated in the supper which was attended by eight men, four women and three children, all people of Russian Jewish origin. The revenue of the affair was to go to "The Jewish Worker's Voice" an Anarchist Paper of New York. I learned through confidential informant that another group of Anarchists had

The Emma Goldman Papers

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Notes: Reply to 880606024. Follow-up to 810402038.

a supper on December 31, 1917 at 17th and Carr Street, at which Bluestone and Minnie Fishman were present, and Bluestone reported that he had canvassed St. Louis in an endeavor to get a hall for Emma Goldman but failed as they all refused to rent a hall for an Emma Goldman affair owing to this refusal, the meeting which was scheduled to be in February had to be called off. I reported a few days ago, that Verney has spoken of such meeting while the I.W.W. hall and this makes me presume that he is in contact with the Bluestone group. I also learned that ~~that~~ that one Hekart, a tailor, 501 Holland Building and one Taylor, a shoemaker of Granite City were present at the supper and that judging from their talk, they are Anarchists of the worst kind. Hekart came from San Francisco, July 4th, 1917 where he participated in several Anarchist movements. Taylor came from Chicago recently.

There is an apparent activity amongst the Anarchists in this vicinity and I expect to report further developments within a short time.

The Emma Goldman Papers

[Agent Report] In re: People[']s Council, Chicago, 191[8] Jan. 4 / Hinton G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice].— 1 p.; 25 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Clabaugh reports that Goldman is expected in Chicago at the end of January 1918.

Notes: Light copy; barely legible. Date should read 1918.

Hinton G. Clabaugh Chicago Ill. Jan. 4 1918

Dec. 13, 1917

In re: Peoples Council

RECEIVED
JAN 14 1918

At Chicago:

The following is a copy of anonymous letter
received by confidential informant:

Next Friday eve, the Peoples' Council will
hold a mass meeting at Fisher Park Hall. Emma
Goldman is expected at the end of this month.

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The Emma Goldman Papers

850806046

[Letter] 1918 Jan. 4 [New York to] Thomas E. Watson, Thomson, Ga. / [Harry Weinberger]. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger notifies Watson that the Supreme Court allowed him to file his supplemental brief. He promises to send Watson a copy.

Notes: Broken type; light copy; barely legible. Handwritten postscript by Weinberger. For Watson's reply, see 850806047.

January 4th, 1918

Thomas E. Watson, Esq.,
Thomson,
Georgia.

My dear Mr. Watson:

I argued before the Supreme Court on Tuesday for leave to file a supplemental brief on the Fourteenth Amendment and my motion was granted. At least I will have the satisfaction to know that the Court may not decide on that point without at least my having had my say on it.

I send you a copy of my supplemental brief from which you will note that your opinion and my opinion that the Fourteenth Amendment did not increase the power of the United States Government was correct.

I am

Sincerely yours,

Enc.

P.S. There was about 25 charges for telegrams in reference to the Jones case

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The Emma Goldman Papers

880606029

[Letter] 1918 Jan. 4 [Chicago to] A. B[ruce] Bielaski, Chief, Bureau of Investigation [Department of Justice], Washington, D.C. / [Hinton G. Clabaugh] Division Superintendent [Bureau of Investigation, Department of Justice]. — 2 p. ; 25 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Clabaugh promises to investigate Goldman's Guillotine plot. He reminds Bielaski of the vast amount of information on the I.W.W. and the anarchists seized in raids on the homes of Hippolite Havel and Theodore Appel.

Notes: Broken type; barely legible. Reply to 880606023.

15446

HGC:AMC

January 4, 1918.

A. B. Bielaski, Esq.,
Chief, Bureau of Investigation,
Washington, D. C.

Dear Sir:-

In re I. W. W.
Neutrality Matter

In reply to your letter of December 29, transmitting confidential memorandum submitted by the Secretary of the Navy as coming from a confidential informant of the Navy Intelligence Service at San Francisco, in the I. W. W., Emma Goldman, and other anarchist cases, you are respectfully advised the Chicago angle will receive careful attention.

In this connection your attention is also invited to the fact that a mass of information was assembled at Chicago prior to the time the Government took up the I. W. W. investigation officially which related to what is known as the Theodore Appel and Hippolite Havel, anarchist cases. Hippolite Havel's home was raided by the police upon more than one occasion and much valuable information was secured. A black book, containing the names of anarchists located all over the country, was secured and is now in the hands of the Post Office Department. Appel and Havel published an out and out anarchist paper called "The Social War," and shortly after the passage of the Espionage Act, by shadowing one of the employees of the "Social War" they were caught mailing an issue which, while printed prior to the passage of the Espionage Act, was circulated afterward. The issue in question was dated, I believe, April 1st, and contained a paragraph advocating forcible resistance of the laws of this country and anarchy. Post Office Inspector Jackson, of this city, made the arrest and is now in possession of considerable information.

At the time one of the defendants was arrested I furnished the Post Office Inspector with the address of the radical meeting place on East 106th St., in New York, at which address the other defendant, I do not recall whether it was Havel or Appel, was apprehended.

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The Emma Goldman Papers

880606029

[Letter] 1918 Jan. 4 [Chicago to] A. B[ruce] Bielaski, Chief, Bureau of Investigation [Department of Justice], Washington, D.C. / [Hinton G. Clabaugh] Division Superintendent [Bureau of Investigation, Department of Justice]. — 2 p. ; 25 x 19 cm.
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Notes: Broken type; barely legible. Reply to 880606023.

A. B. Bielaski, Esq.

2.

Jan. 4, 1918.

In re I. W. W.
Neutrality Matter

I mention this merely for your information and that of Mr. Coffey in the event the latter thinks the information at Chicago will be of any assistance to him.

In addition to the card index system, containing the names of approximately 75,000 I. W. W.'s, we also have a book containing the names of several thousand anarchists, most of whom are located at Chicago and in the central west. These names were secured through the cooperation of the police, by covering the mail at the addresses of certain known anarchists, and through special investigators with whom I was in close touch at Chicago.

Very truly yours,

Division Superintendent.

Copy to New York Office.

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The Emma Goldman Papers

[Letter] 1918 Jan. 5, New York [to] George Creel [Chairman, Committee on] Public Information, Washington, D.C. / Harry Weinberger. — 2 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger complains that Goldman cannot arrange lectures because of the government's interference. He asks Creel to provide a letter stating that Goldman may lecture on legal topics.

Notes: Broken type; light copy. For enclosure, see 860404000. Enclosed with 810113164. For related documents, see 870810031 and 810113166.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

HARRY WEINBERGER

COUNSELOR AT LAW

201 BROADWAY, NEW YORK

TELEPHONE CONNECTION

January 5th, 1918.

Mr. George Creel,

Bureau of Public Information,

Washington, D. C.

My dear Mr. Creel:

When Marshal McCarthy of New York was stopping Miss Emma Goldman from speaking in the City of New York on literature, the drama, the Mooney case or the Russian situation, I took the matter up with Asst. Attorney General William C. Pitts, at Washington, and the final outcome was that Marshal McCarthy no longer interferes with meetings, and lectures have been given repeatedly.

But Miss Goldman in trying to arrange meetings in other cities, is continually met with the statement that the United States Government objects to her talking on any subject. All these things give a wrong impression over the country, and the enclosed clipping from the N. Y. Times, shows what effect some of these stories have in Europe, especially in Russia.

It seems to me that a letter from you addressed to me that the Government has no objection to Miss Goldman's ~~or~~ ~~any one else's~~ meetings being held that do not offend against the law, and especially have no objection to meetings on the Mooney case, or on literature, or interpretations of the Russian situation, would help to dissipate the wrong impression as to the

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The Emma Goldman Papers

[Letter] 1918 Jan. 5, New York [to] George Creel [Chairman, Committee on] Public Information, Washington, D.C. / Harry Weinberger. — 2 p. ; 36 x 21 cm.

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C O P Y
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13-(Section 2)
87

HARRY WEINBERGER
COUNSELOR AT LAW
201 BROADWAY, NEW YORK
TELEPHONE CONNECTION

Government's true position of no interference with anything that is not illegal, and permit the holding of meetings in every city.

If you can write such a letter, expressing such ideas so that it can be used where meetings are to be arranged, it would be much appreciated, and personally I believe that it would be helpful to the country in a good many ways.

Sincerely,

Harry Weinberger

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The Emma Goldman Papers

860404000

Call Berkman a Martyr—28 cm. In [New York Times (Jan. 5, 1918)] / [author unknown].

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: The New York Times reports that Russians, widely condemning Berkman's imprisonment, hail him as a martyr.

Notes: Dark copy; barely legible. Enclosed with 810113162. Date should read 1918.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13-(Section 2)

27

BERKMAN A MARTYR
New York, Jan. 5, 1918.
Alexander Berkman, the anarchist who is under sentence in New York for two years for conspiring to obstruct the military draft regulation and under indictment in this city in connection with the preparation of a bomb murder, is being hailed by the Russians as a martyr to the cause of liberty, according to Professor William B. Thayer of Johns Hopkins University, a member of the American Red Cross Mission to Russia. At a mass meeting several weeks ago in Petrograd, Professor Thayer said here today, "a protest against the incarceration of Berkman in the United States was adopted. A speaker told of Berkman's arrest and said that he had been thrown into a dungeon and would never again see daylight. The speaker also informed the audience that it was far from uncommon in the United States for workmen resisting the demands of their employers to be imprisoned for life, cast into underground dungeons, to be broken on the wheel and to have their limbs nailed up the front doors of their houses. I have corroborated every detail of this meeting and my information is derived from most reliable sources."

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The Emma Goldman Papers

810113318

[Letter] 1918 Jan. 5, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger sends the solicitor general five copies of his supplemental brief in Goldman's appeal and asks for the previously requested copies of the government's brief.

Notes: Broken type; light copy. For enclosure, see 871211001. For reply, see 850712217.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

HARRY WEINBERGER
COUNSELOR AT LAW
201 BROADWAY, NEW YORK
TELEPHONE CONNECTION

January 5th, 1918.

Mr. John W. Davis,
Solicitor General,
Department of Justice,
Washington, D. C.

My dear Mr. Davis:

I am sending you under separate cover five copies of my supplemental brief in the Goldman Berkman case, as requested by your Secretary.

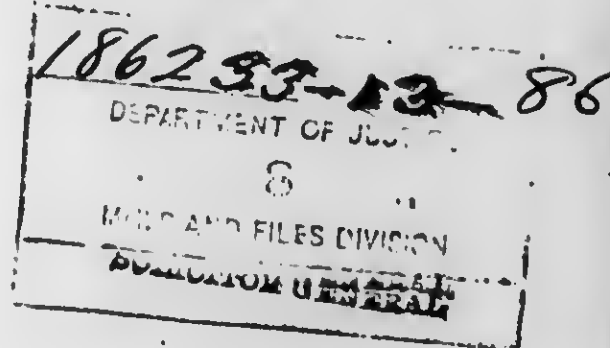
I have not received the extra copies of the Government's brief, as per my agreement with your office. Will you kindly give orders that the extra twenty copies be sent me and oblige.

I take it that you will not reply to the supplemental brief.

If the court does not hand down an opinion on the 7th day of January, when would be the next day that it could hand down opinions?

Respectfully,

Harry Weinberger



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The Emma Goldman Papers

[Letter] 1918 Jan. 5, Washington, D.C. [to] Harry Weinberger, New York / W.J. Hughes [Assistant Solicitor General] Department of Justice. — 1 p. ; 29 x 22 cm.
 Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.
 Summary: Hughes sends Weinberger ten more copies of the government's brief in Goldman's appeal.
 Notes: For enclosure, see 871221000. Reply to 810113312.



Office of the Solicitor General, SG-WJH-LJB
 Washington, D.C.

January 5, 1918.

WJH
 Harry Weinberger, Esq.,

261 Broadway,

New York, N. Y.

My dear Mr. Weinberger:

Your letter of the 29th ultimo, in relation to additional copies of the government brief in the Selective Draft Law Cases, was duly received. Response thereto has been unavoidably delayed. The understanding of the Department was that it was to furnish you ten copies of its brief, which as you know was entitled in all of the cases, and you were to furnish ten copies of your brief or briefs. The Department is unable to furnish you as many as 30 copies on account of the demand for the brief, but will go as far as possible, and, therefore, is sending you by this mail under a separate cover ten additional copies.

Hoping this will be satisfactory, I am

Respectfully,

W.J. Hughes
 Attorney.

The Emma Goldman Papers

[Report on Roger Baldwin, New York] 1918 Jan. 5 / [Spencer? Eddy? Office of Naval Intelligence, Navy Department].— 3 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: A lieutenant-commander of the Naval Reserve describes an interview with Roger Baldwin conducted by Mr. Wellman, an old friend of Baldwin's now working for the Navy. Wellman elicited the information that Baldwin knew of the Guillotine Club and believed it was a newspaper organization and was related to Goldman.

C O P Y

January 5, 1918

Enclosure
10110-524
367
39
WAR DEPARTMENT
102

Committee of Five of the Secret Order of the Guillotine.

Reference: Orders of December 11, 1917.

With regard to the above subject and reference, I have to report that Mr. Roger N. Baldwin, Director of the National Civil Liberties Bureau, was interviewed by Mr. Wellman of this Office at No. 70 Fifth Ave., New York City, the headquarters of the organization, on January 3rd.

Baldwin is about thirty-four years of age, was graduated from Harvard University in 1905, and was a classmate and friend of Mr. Wellman. His father and mother are Bostonians and lived in one of the suburbs. Roger Nash Baldwin is the eldest of eight children. A younger brother, Horbert, is enlisted in the Navy and is stationed at Newport, R.I. Another brother is in the United States Army. Mr. Wellman states that the subject in college days was a very simple, conscientious young man, more than usually bright, and possessed always of a great interest in the welfare of his fellow beings. The family are very respectable New England people of moderate means.

After leaving college, Baldwin took up social settlement work and moved to St. Louis, Mo., where he lived in one of the social settlement houses among the poor. He adopted two boys of about ten years of age at that time, and undertook their maintenance and education. One of these boys is now enlisted in the Army, as Baldwin states, and the other was rejected as a "conscientious objector."

Mr. Wellman had not seen Mr. Baldwin for over seven years until the interview of January 3rd, and his pretext for calling on him then was to renew their former acquaintance. In the course of the interview Mr. Wellman stated to Baldwin that he was not a fighting man and that he believed in freedom of speech, and, in a half-joking way, suggested that he might become a recruit in the organization. Baldwin then produced a number of pamphlets, which he said were publications of the Bureau, and displayed the letterhead which is attached to this report, stating that the organization was a thoroughly American one, that the sentiments of the organization were anti-German, and that its main purpose was to voice the feelings and champion the rights of those who are conscientiously opposed to taking up arms. Baldwin stated that he and his organization were bitterly opposed to the violent demonstrations of the I.W.W. and sought in every way to point out the futility of such ignorant means of bringing home to the Government and the public their grievances. He then pointed to the motto on the letterhead of the Bureau: "For the maintenance in war time of the rights of free press, free speech, peaceful assembly, liberty of conscience, and freedom from unlawful search and seizure." He stated that far more violence and harm had been done to his constituents than they had done in retaliation.

The Emma Goldman Papers

[Report on Roger Baldwin, New York] 1918 Jan. 5 / [Spencer? Eddy? Office of Naval Intelligence, Navy Department].— 3 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: A lieutenant-commander of the Naval Reserve describes an interview with Roger Baldwin conducted by Mr. Wellman, an old friend of Baldwin's now working for the Navy. Wellman elicited the information that Baldwin knew of the Guillotine Club and believed it was a newspaper organization and was related to Goldman.

-2-

Baldwin stated that he had left St. Louis shortly after the severance of diplomatic relations with the German Government and had set up in Washington, where the Bureau had been maintained by him until July, when he moved into the New York offices and left Mr.

Laurence Todd as their Washington representative. That he had had many talks with Secretary of War Baker and considerable correspondence with him concerning the work of the organization, and that Mr. Baker had expressed the Government's gratitude and approval of the league and its work, stating that it had served to organize and bring together in an orderly manner those in the laboring and other classes who believed that labor was not given a proper hearing and that this war was one of capital.

Baldwin invited Mr. Wellman to attend a meeting which is to be held on Wednesday, January 9th, in the Small Room of the Shoreham Hotel in Washington at 10 A.M., at which he said President Wilson would have present as his personal representative Mr. Felix Frankfurter, and at which the grievances of the laboring party were to be set forth and the stand of the organization made plain, with a view to some adjustment with the Government in furtherance of their rights.

When asked, with a discreet introduction, about the Guillotine Club, Baldwin stated that he had heard of it and understood that it was a newspaper organization of some kind - that a reporter on one of the New York papers, named Williams, had told him he was a member, - and that he believed Emma Goldman had something to do with it, but that further than that he knew nothing about it.

When it was suggested to him that his name and personality might be made use of as a cloak for acts of violence by the more unscrupulous members of his following, Baldwin stated that he realized he was taking this risk but that so long as he did everything in his power to prevent his constituents from showing their grievances in such a form, he felt that it would be cowardly to allow any such risk to interfere with his efforts.

Baldwin mentioned, during the course of the interview, that indictments for treason had been found against several members of his tribe "for inducing ten thousand citizens of draft age to fail to present themselves at the call of the draft." and added that the Government's case was based on popular prejudice and was not supported by an iota of legal evidence.

At the close of the interview Baldwin requested Mr. Wellman to read over the pamphlets, and said that he would be glad to have dinner with him some time in the near future to talk over the matter more fully. He stated that he resided with his aunt, Mrs. William B. Baldwin, at

The Emma Goldman Papers

[Report on Roger Baldwin, New York] 1918 Jan. 5 / [Spencer? Eddy? Office of Naval Intelligence, Navy Department]. — 3 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: A lieutenant-commander of the Naval Reserve describes an interview with Roger Baldwin conducted by Mr. Wellman, an old friend of Baldwin's now working for the Navy. Wellman elicited the information that Baldwin knew of the Guillotine Club and believed it was a newspaper organization and was related to Goldman.

-3-

No. 1 West 83rd St., and that his telephone number was Schuyler 4423. He mentioned that he had had many talks with Mr. Tumulty, Secretary to the President, about the work of the organization.

No intimation was given of Mr. Wellman's connection with the Government, and from the tone of the conversation and his knowledge of Mr. Baldwin's character, Mr. Wellman is of the belief that the information given and the sentiments expressed were purely as from friend to friend.

Should any further information be required from this source, Mr. Wellman is ready to make an appointment with Baldwin and learn whatever is desired.

Lieut. Commander, U.S.N.R.F.

The Emma Goldman Papers

[Letter] 1918 Jan. 5, New York [to] A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice, Washington, D.C. / W[illiam] M. Offley, Division Superintendent, Bureau of Investigation, Department of Justice. — 1 p.; 25 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Offley reports that Army and Navy Intelligence, the Secret Service, and the New York Police Department Bomb Squad are all investigating Goldman's alleged Guillotine plot. Major Biddle of Army Intelligence has asked the Bureau of Investigation not to interfere.

Notes: Broken type. Reply to 880606025.

WM. M. OFFLEY
DIVISION SUPERINTENDENT

TELEPHONE CORTLAND 3081

United States Department of Justice

Bureau of Investigation

OFFICE OF DIVISION SUPERINTENDENT

1401-1415 PARK ROW BLDG.

NEW YORK CITY

REC-770

JAN 7 5. 1918.
Bureau of Investigation
Department of Justice

A. B. Bielaski, Esq.,
Chief, Bureau of Investigation,
Department of Justice,
Washington, D. C.

Dear Sir:

In reply to your letter A. B. B. of the 19th ultimo, concerning the "Guillotine Club" and Emma Goldman, I beg to advise you that I find the Army and Naval Intelligence Service and the Secret Service are all engaged in investigating this organization. Major Biddle informs me he has a man "on the inside", and I am told the Naval Intelligence has arranged to rent a loft adjoining the club premises.

The letters of which I spoke to you personally, found in the possession of Teitzenkorn, have been surrendered by the attorney for the wife of the latter to Major Biddle.

Inspector Tunney of the Bomb Squad is watching closely the activities of Emma Goldman and Alexander Berkman, and claims to be in a position to know every move they make. The Bomb Squad was originally created for the purpose of watching the activities of the anarchists in this section, and have a vast amount of information and sources for securing information which are not possessed by other bureaus.

Major Biddle has asked that under all these circumstances, this Bureau shall refrain from entering upon this investigation at the present time, or at least until he may have opportunity to determine whether he wishes to continue his work or prefers to turn it over to us. It would appear that should we interfere at this time, it will probably simply create confusion and perhaps interfere with well-defined plans of Major Biddle. I have therefore informed him that unless advised that he has discontinued his investigation, we will do nothing. He agrees with me, however, that it is important that some investigating force continue work upon this matter, and assures me that should it develop at any time that he can do nothing more, he will promptly communicate with this office to that effect.

Very truly yours,

W. M. Offley
Division Superintendent.

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The Emma Goldman Papers

[Letter] 1918 Jan. 5 [Washington, D.C. to] William M. Offley [Division Superintendent, Bureau of Investigation, Department of Justice], New York / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 25 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski sends Offley a report on Goldman from Naval Intelligence. He doubts the reliability of the information.

Notes: Dark copy; barely legible. For enclosure, see 800519028.

AB
ALS

January 5, 1918.

15446

William M. Offley, Esq.,
Box 241,
New York, N. Y.

Dear Sir:

I enclose herewith copy of a report received from the Naval Intelligence regarding the activities of Emma Goldman and various of her associates.

You will note the statements that there is a leak in the office of Assistant United States Attorney Content and various other matters which should have immediate attention in New York City. As I indicated in my former letter to you regarding information from this Service, I cannot but feel that most of it is grossly inaccurate, but is of such an important character that special attention should be given to it.

I have sent a copy to our Chicago office. Please send to Mr. Glabaugh copies of any reports which may be of interest to him.

Very truly yours,

Chief,

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The Emma Goldman Papers

[Letter] 1918 Jan. 5 [Washington, D.C. to] H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice], Chicago / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 25 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Clabaugh to investigate a report on Goldman's activities, although he believes it inaccurate.

Notes: Dark copy; barely legible. For enclosure, see 800519028. Follow-up to 880606023. For related document, see 880606031.

AKB
ALS

January 5, 1918.

H. G. Clabaugh, Esq.,
Box 458,
Chicago, Illinois.

Dear Sir:

I enclose herewith a copy of a report received through the Naval Intelligence Service with respect to I. W. W. activities and those of Emma Goldman and her associates.

As I indicated in a previous letter to you, I am inclined to think that most of this information is grossly inaccurate but it is of such an important character that it should be run down at the earliest practicable time.

I have sent copies of this report to our New York office with instructions to make immediate investigation.

Please send to Mr. Offley copies of any reports which may be of interest to him.

Very truly yours,

Chief.

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The Emma Goldman Papers

[Report on] I.W.W. Anarchists[-Pacific Coast] San Diego, Calif., 1918 Jan. 6 /
[Agent 102? Military Intelligence Division, War Department].— 2 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agent 102 describes the activities of the Los Angeles and San Diego anarchist community. The agent met Freda and Landa Frater, who were members of Goldman's group in New York.

Notes: Broken type; light copy. For follow-up report, see 810402033.

San Diego, Cal., January 6, 1918, 9

SUBJECT: I. W. W. Anarchists,

Location: Los Angeles, and San Diego, Calif.,

Met with Mrs. Perry B. McCullough on the afternoon and evening of the 4th and met a couple of Russian Jews, named Freda and Landa Frater, husband and wife who live at Ontario, near Los Angeles.

Agent had this couple before at a radical dinner, and the man was one of the speakers, and made the most radical talk of the evening, in which he argued that nothing but a bloody revolution could right the wrongs the radicals complain of. He criticized the administration in every way possible, and was rabid in his denunciation of the war.

Mrs. McCullough says that this couple were members of the Emma Goldman following in New York City and that when the Government financed the sending of one thousand Russians back to Russia, to preach Democracy during the Kerensky regime, those people were among those to go and were given the money to pay their expenses, but instead of going to Russia they came to Los Angeles, and have been here ever since, spreading the pro-German propaganda, and working with the I. W. W. organization.

Mrs. McCullough says this couple is a potent factor in this movement and are exerting a wide influence not only among the people of their own country but among all others in the way of educating them and impressing upon them the necessity of a world wide revolution. This man, Landa Frater, appears to be within conscription age. Agent was informed that the newspaper man, Julius Hess, has disappeared from Los Angeles, and they do not know where he is. They say he is a sabotage worker, and is now under secret workers and may be in San Diego, or some place along the Mexican border. Agents will make a thorough search for him in San Diego. Agent was told that Bee Shanstack was on the move all the time apparently running away from something.

It will be remembered that this person is the radical who came from New York City, and lived in Los Angeles for a short time, mingling with the radicals while there as a leader, and apparently on some kind of a mission from the New York headquarters. She was last heard from in San Francisco but no one seems to know where she is at the present time.

We came to San Diego, yesterday, and find that George Edwards, the radical, is here, and has just had published a work the newspaper account of which is hereto attached.

Mr. Edwards is looked upon as his radical associates as one of their efficient propagandist, who is educating the

The Emma Goldman Papers

[Report on] I.W.W. Anarchists[—Pacific Coast] San Diego, Calif., 1918 Jan. 6 /
[Agent 102? Military Intelligence Division, War Department].— 2 p. ; 28 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agent 102 describes the activities of the Los Angeles and San Diego anarchist community. The agent met Freda and Landa Frater, who were members of Goldman's group in New York.

Notes: Broken type; light copy. For follow-up report, see 810402033.

-2-,

SUBJECT: I. W. W. Anarchists,

in the radical movement by his music and his work.

We will get in touch with him while here, and get what information we can as to his radical associates, and what is being done by them in this Section.

Our Agent has friends here who are in touch with Governor Canter of Sower, California, and learned from one of them that the reports which have recently been published regarding the plan of Governor Canter to declare the independence of Sower, California, is not entirely newspaper talk, that such a plan has been in contemplation for a couple of years, and that the time may be drawing near when Governor Canter can see his way clear to doing this. Agent will get all the particulars as to this matter possible, while here.

The Emma Goldman Papers

[Agent Report] In re: Louis Weitzenkorn, et al[.], I.W.W. Activities, New York, 1918
Jan. 7 / W.W. Blatchford, Jr. [Agent, Bureau of Investigation, Department of Justice].
— 4 p. ; 30 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Blatchford reports on the ongoing investigation of the Guilloine Club in New York City by the Bureau of Investigation, Naval Intelligence, Army Intelligence and the New York City Police.

Notes: Broken type; light copy.

REPORT MADE BY: W. W. Blatchford Jr.	PLACE WHERE MADE: New York City.	DATE WHEN MADE: Jan. 7, 1918.	PERIOD FOR WHICH MADE: Jan. 4th.
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: IN RE: LOUIS WEITZENKORN, ET AL, I. W. W. ACTIVITIES.			
STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.: Pursuant to instructions from Division Superintendent Offley, based on Chief Bielaski's letter, dated December 29th, 1917, and initialed A. B.B.- J. A. S., I today began investigation herein, as follows: Several weeks ago a lawyer who did not give his name informed Div. Supt. Offley that certain letters he was using in a divorce action pending in the Supreme Court, County of New York, he thought might prove of interest to the Government, and which he promised to deliver to Mr. Offley after the trial of said action. Mr. Offley recalled that the name of said attorney's client was a Mrs. Louis Weitzenkorn. I went to the office of the clerk of the County of New York and ascertained that a divorce action had recently been tried in which Habel S. Weitzenkorn, plaintiff, was represented by an attorney named Charles J. Katzenstein of 220 Broadway, and Louis Weitzenkorn, defendant, was represented by attorneys Koenig, Goldsmith and Sittenfield of 27 Cedar St. The County Clerks index of the file of the aforesaid action is 25631-1917, - the papers were today in the Judge's chambers, but I shall make an examination thereof as soon as possible. I then went to 220 Broadway and learned from Katzenstein that although he was attorney of record in the said action he actually was only of counsel, plaintiff's real attorney being Stuart F. Kohn of 27 Cedar Street. I thereupon went to Mr. Kohn's office, but he was not in. I waited for about an hour, but he had not returned at 5:30 P. M. I later spoke to Kohn over the telephone at his home and he told me that, contrary to his promise to Mr. Offley, he had delivered the papers here under consideration to another Government Department. (Over) COPY OF THIS REPORT FURNISHED TO: Chicago Office.			

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The Emma Goldman Papers

[Agent Report] In re: Louis Weitzenkorn, et al[.], I.W.W. Activities, New York, 1918
Jan. 7 / W.W. Blatchford, Jr. [Agent, Bureau of Investigation, Department of Justice].
— 4 p. ; 30 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Blatchford reports on the ongoing investigation of the Guillotine Club in New York City by the Bureau of Investigation, Naval Intelligence, Army Intelligence and the New York City Police.

Notes: Broken type; light copy.

Page "4."

REPORT FORM NO. 2

Report of Agent Blatchford Jr. Continued for January 4th, 1918.

Kohn had an engagement this evening so that it was impossible to see him tonight and as I did not wish to discuss the matter over the telephone I made arrangements to meet him tomorrow morning.

I shall make further investigation and report herein.

67-571

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The Emma Goldman Papers

[Agent Report] In re: Louis Weitzenkorn, et al[.], I.W.W. Activities, New York, 1918
Jan. 7 / W.W. Blatchford, Jr. [Agent, Bureau of Investigation, Department of Justice].
— 4 p. ; 30 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Blatchford reports on the ongoing investigation of the Guillotine Club in New York City by the Bureau of Investigation, Naval Intelligence, Army Intelligence and the New York City Police.

Notes: Broken type; light copy.

REPORT FORM No. 1 I.H.

Page 3.

JAN 10 1918

REPORT MADE BY: W. W. Blatchford Jr.	PLACE WHERE MADE: New York City,	DATE WHEN MADE: Jan. 7, 1918.	PERIOD FOR WHICH MADE: Jan. 8. 10110-524 -33.
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: IN RE: LOUIS WEITZENKORN, ET AL. I. W. W. ACTIVITIES.			

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.

Referring to my investigation and report herein of yesterday, based on Chief Bielaski's letter dated December 31st, 1917, and initialed ABB-JAS, I to day interviewed Attorney Stuart M. Kohn, heretofore mentioned, at the office of this Bureau. Kohn stated that on July 15th, 1917, Dunn & Jewesson Detective Agency, of 150 Nassau St., this City, while endeavoring to get evidence in the divorce suit which was then pending between Habel Segal Weitzenkorn and her husband, Louis Weitzenkorn, made a raid on the "Guillotine Club" at 23 Christopher Street, this city. In the room of Lillie Linner at said club they then found a coat belonging to Louis Weitzenkorn, who had apparently just left her room by going down the dumb-waiter, in the pockets of which were several letters of an incriminating character. Kohn told me that he had some time ago given all of the said letters to John H. Brady one of the inspectors in the office of Major Biddle of the Army Intelligence. I then telephoned Brady, but he was not in. I thereupon went with Kohn to the office of Dunn & Jewesson aforementioned, where we saw one of their operators a Mr. Braun, who said that he had the overcoat above referred to but that he had no letters other than those he had heretofore given Kohn, and could furnish no information material herein.

I then went to the Chambers of Justice Cavegan of the Supreme Court, 51 Chambers St., where I asked whether at the trial of Weitzenkorn divorce action before said Justice any facts had been brought out that would be of importance to this investigation. Justice Cavegan did not recall any facts of importance, but agreed to arrange on Monday next to have all the testimony taken at the trial (which has not been typewritten) read to me by the court stenographer.

COPY OF THIS REPORT FURNISHED TO:

Chicago.

67-877

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227

The Emma Goldman Papers

[Agent Report] In re: Louis Weitzenkorn, et al[.], I.W.W. Activities, New York, 1918
Jan. 7 / W.W. Blatchford, Jr. [Agent, Bureau of Investigation, Department of Justice].
— 4 p. ; 30 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Blatchford reports on the ongoing investigation of the Guillotine Club in New York City by the Bureau of Investigation, Naval Intelligence, Army Intelligence and the New York City Police.

Notes: Broken type; light copy.

REPORT FORM NO. 2

Page 4.

Report of Agent Blatchford Jr., Continued for January 5th, 1918.

I then interviewed Lieutenant Waterbury of the Naval Intelligence, 15 Wall Street, who told me that his office had been working on this case, was about to rent a new vacant loft over the "Guillotine Club" and thus attempt to get information under cover. I was not able to see the file of this office and I was informed that William F. McCallhill, who has immediate charge of the investigating of the matter, was not in and would not be in until next Monday afternoon. I here learned that the Secret Service is also making an investigation of this matter.

I then went to Major Biddle's office, 302 Broadway, where I saw Lieutenant Campbell and the said inspector John H. Brady. I was informed by Lieutenant Campbell that he had a man "planted" in the "Guillotine Club" and further that the whole matter is having his attention. Lieutenant Campbell declined to give me the letters that had been taken from Weitzenkorn's coat as aforesaid and which he has in his file. I was informed by Inspector Brady that the New York City Police force, Captain Tunney's "Bomb Squad" is keeping close watch on Emma Goldman and also making an investigation of the "Guillotine Club."

I reported the above facts to Division Superintendent O'Kiley, who said that he would write a letter to Chief Bielaski, and, in view of the various other investigations that are being conducted, instructed me to take no further action herein.

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The Emma Goldman Papers

[Letter] 1918 Jan. 7, Washington, D.C. [to] Thomas Watt Gregory, Attorney General [Department of Justice], Washington, D.C. / George Creel, Chairman, Committee on Public Information. — 1 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Creel sends Gregory a letter he received from Harry Weinberger and asks how to reply.

Notes: For enclosure, see 810113162. For reply, see 870810031.

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THE NATIONAL ARCHIVES

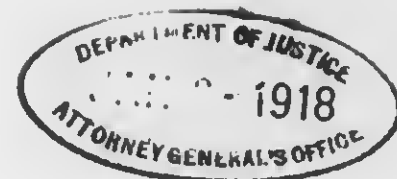
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

GEORGE CREEL, CHAIRMAN
U. S. SECRETARY OF STATE
THE SECRETARY OF WAR
THE SECRETARY OF THE NAVY

COMMITTEE ON PUBLIC INFORMATION

WASHINGTON, D. C.



(Enc)

January 7, 1918.

Honorable Thomas Watt Gregory,
The Attorney General,
Washington, D.C.

My dear Mr. Attorney General:

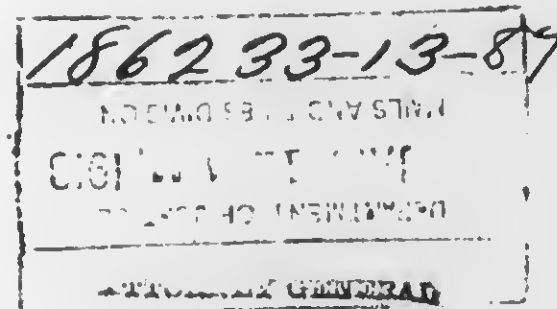
I am using Judge Buffington's speech to naturalize aliens as the booklet that will be circulated high in the millions. Thank you for calling it to my attention.

I enclose you a letter just received. It is a matter of which I know nothing, and to which I do not care to write an answer until I am informed of your position.

Respectfully,

Chairman.

JAN 11 1918



The Emma Goldman Papers

[Letter] 1918 Jan. 7, Thomson, Ga. [to Harry] Weinberger, [New York] / Tho[ma]s E. Watson. — 2 p. ; 18 x 17 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Watson congratulates Weinberger on his supplemental brief.

Notes: Reply to 850806046.

T.
E.
W.

Thomson, Ga. 1/7. 1918
My dear Mr. Weinberger,
Yours enclosing copy
Supplemental brief rec'd
It is unanswerable. The Court
will have to squirm, & legis-
late, before I can make the
present Constitution law con-
form to either the British
or the U. S. Constitution.
Enclosed please find
ag. for \$100 which I

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The Emma Goldman Papers

[Letter] 1918 Jan. 7, Thomson, Ga. [to Harry] Weinberger, [New York] / Tho[ma]s E. Watson. — 2 p. ; 18 × 17 cm.

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Summary: Watson congratulates Weinberger on his supplemental brief.

Notes: Reply to 850806046.

Hope will be satisfactory.
 No sooner had Mrs.
 Lytle helped so devotedly
 & efficiently to nurse
 me back to a semblance
 of help, than she was
 stricken down. This morn-
 ing we fear she has
 appendicitis of which
 she once before had an
 attack.
 With best wishes,
 Yours truly, Thos. E. Watson

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Summary: The Supreme Court affirms the constitutionality of the Selective Draft Act, in the combined cases which are companions to Goldman's appeal. The Supreme Court affirms the constitutionality of the Draft Act, in the joint cases which are companions to Goldman's appeal.

Notes: Thirteen shots of twenty-five pages.

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Syllabus.

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SELECTIVE DRAFT LAW CASES.

ERROR TO THE DISTRICT COURTS OF THE UNITED STATES
FOR THE DISTRICT OF MINNESOTA AND THE SOUTHERN
DISTRICT OF NEW YORK.

Nos. 663, 664, 665, 666, 681, 769. Argued December 13, 14, 1917.—Decided January 7, 1918.

The grant to Congress of power to raise and support armies, considered in conjunction with the grants of the powers to declare war, to make rules for the government and regulation of the land and naval forces, and to make laws necessary and proper for executing granted powers (Constitution, Art. I, § 8), includes the power to compel military service, exercised by the Selective Draft Law of May 18, 1917, c. 15, 40 Stat. 76. This conclusion, obvious upon the face of the Constitution, is confirmed by an historical examination of the subject.

The army power, combining the powers vested in the Congress and the States under the Confederation, embraces the complete military power of government, as is manifested not only by the grant made but by the express limitation of Art. I, § 10, prohibiting the States, without the consent of Congress, from keeping troops in time of peace or engaging in war.

The militia power reserved to the States by the militia clause (Art. I, § 8), while separate and distinct in its field, and while serving to diminish occasion for exercising the army power, is subject to be restricted in, or even deprived of, its area of operation through the army power, according to the extent to which Congress, in its discretion, finds necessity for calling the latter into play.

The service which may be exacted of the citizen under the army power is not limited to the specific purposes for which Congress is

¹ The docket titles of these cases are: *Arver v. United States*, No. 663, *Grahl v. United States*, No. 664, *Otto Wangerin v. United States*, No. 665, *Waller Wangerin v. United States*, No. 666, in error to the District Court of the United States for the District of Minnesota; *Kramer v. United States*, No. 681, *Graubard v. United States*, No. 769, in error to the District Court of the United States for the Southern District of New York.

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366. Counsel for Parties.

expressly authorized, by the militia clause, to call the militia; the presence in the Constitution of such express regulations affords no basis for an inference that the army power, when exerted, is not complete and dominant to the extent of its exertion.

Compelled military service is neither repugnant to a free government nor in conflict with the constitutional guaranties of individual liberty. Indeed, it may not be doubted that the very conception of a just government and its duty to the citizen includes the duty of the citizen to render military service in case of need and the right of the government to compel it.

The power of Congress to compel military service as in the Selective Draft Law, clearly sustained by the original Constitution, is even more manifest under the Fourteenth Amendment, which, as frequently has been pointed out, broadened the national scope of the government by causing citizenship of the United States to be paramount and dominant instead of being subordinate and derivative, thus operating generally upon the powers conferred by the Constitution.

The constitutionality of the Selective Draft Law also is upheld against the following objections: (1) That by some of its administrative features it delegates federal power to state officials; (2) that it vests both legislative and judicial power in administrative officers; (3) that, by exempting ministers of religion and theological students under certain conditions and by relieving from strictly military service members of certain religious sects whose tenets deny the moral right to engage in war, it is repugnant to the First Amendment, as establishing or interfering with religion; and (4) that it creates involuntary servitude in violation of the Thirteenth Amendment.

Affirmed.

THE cases are stated in the opinion.

Mr. T. E. Latimer, with whom Mr. Herbert L. Dunn and Mr. Frank Healy were on the briefs, for plaintiffs in error in Nos. 663, 664, 665 and 666.

Mr. Harry Weinberger for plaintiff in error in No. 681.

Mr. Edwin T. Taliferro, with whom Mr. I. M. Sackin was on the brief, for plaintiff in error in No. 769.

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Mr. Hannis Taylor and Mr. Joseph E. Black, by leave of court, filed a brief as *amici curiæ*.

Mr. Walter Nelles, by leave of court, filed a brief as *amicus curiæ*.

The Solicitor General, with whom *Mr. Robert Szold* was on the brief, for the United States.

These cases were argued and submitted together with *Jones v. Perkins*, *infra*, 390; *Goldman v. United States*, *infra*, 474; *Kramer v. United States*, *infra*, 478; and *Ruthenberg v. United States*, *infra*, 480. The briefs filed by the parties and *amici curiæ* opposed to the Government attack the constitutionality of the statute from every standpoint. As it is manifestly impracticable to restate these arguments separately, perhaps the best recourse available is to exhibit their leading features reflexly, by summarizing the answers to them contained in the single brief of the United States, viz:

The highest duty of the citizen is to bear arms at the call of the nation. This duty is inherent in citizenship; without it and the correlative power of the State to compel its performance society could not be maintained. Vattel, *Law of Nations*, Book III, c. 2, §§ 8, 10. It is a contradiction in terms to say that the United States is a sovereign and yet lacks this power of self-defense. Hence, the power was expressly granted by the Constitution. Art. I, § 8. It is found in the power to declare war, which means a power to carry on war successfully, i. e., with the means necessary. Vattel, Book III, c. 2, § 7; *United States v. Sugar*, 243 Fed. Rep. 423, 436; *Kneedler v. Lane*, 45 Pa. St. 238. Also in the power to raise and support armies, which is conferred broadly, and without limitation, other than the restriction that appropriations to support armies shall not exceed two years. There is no provision

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limiting the means to voluntary enlistment. On the contrary, Congress is expressly empowered to use all means necessary and proper to carry out the express grant. Hence, the power to resort either to voluntary enlistment or to enforced draft is express. Selective draft is not only an appropriate means but under the conditions of modern warfare the most prudent, just, and equitable method which can be employed. That the power to compel military service is an incident of sovereignty appears from the custom of nations. Compulsory service is now exacted by practically all the nations of the globe. The compulsory draft was a normal method of raising armies in the United States in 1787 when the Constitution was adopted. It was expressly recognized in many state constitutions, was enforced by the States for local purposes in calling out the militia, and also for obtaining levies to fill the ranks of the Continental Army. The constitutions of five States during the Revolutionary War period express the principle of universal military service. Militia duty was imposed upon all arms-bearing citizens of the original thirteen States during the eighteenth century. The Continental Congress recommended it to the States as a means of recruiting the Continental Army; and the numerous statutes enacted pursuant to those recommendations [space will not permit of their citation here] conclusively determine the meaning which the framers of the Constitution attached to the power to raise armies. The history of this clause in the Convention shows a definite intent not to limit the nation to voluntary enlistments. Supp. Elliot's Debates, vol. 5, pp. 378, 379, 443, 510, 511, 553; Farrand's Records of the Federal Convention, vol. 2, pp. 323, 330, 505, 509, 570, 595. Several of the States, in ratifying the Constitution, proposed amendments to limit the power of Congress to raise armies by draft, Journals of Congress, vol. 13, appendix, pp. 176, 184, Folwell's Press, 1801;

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Elliot's Debates, vol. 1, p. 336; vol. 3, p. 659; vol. 4, pp. 242, 244, 251, 252; and their rejection shows not only that the language employed was intended to include the power to draft but also that this was the contemporary interpretation. A prime object of the Constitution was to cure the impotence of the Continental Congress directly to require military service from the citizens of the States. Articles of Confederation, 7, 9 (1 Stat. 6, 7); Federalist, No. 22, p. 143, No. 23, pp. 152, 153; 7 Sparks, Writings of Washington, pp. 162, 167.

Our national history demonstrates the existence of the power by its exercise. It was resorted to in the War of Independence and by both sides in the Civil War; near the conclusion of the War of 1812, James Monroe, then Secretary of War, submitted to Congress a draft bill with an unanswerable argument supporting the power. See Niles' Weekly Register, vol. 7, p. 137. [The Government also referred to state statutes requiring compulsory militia service in force before and after the adoption of the Constitution; Rev. Stats., § 1998, amended in 1912, 37 Stat. 356; and the following acts of Congress providing for drafting the militia: Feb. 28, 1795, 1 Stat. 424, amended April 18, 1814, 3 Stat. 134; July 17, 1862, 12 Stat. 597.]

Court decisions uniformly have recognized the power. *Tarble's Case*, 13 Wall. 397, 408; *Grimley's Case*, 137 U. S. 147, 153. See also *Presser v. Illinois*, 116 U. S. 252, 265; *Robertson v. Baldwin*, 165 U. S. 275, 282; *Jacobson v. Massachusetts*, 197 U. S. 11, 29; *Buller v. Perry*, 240 U. S. 328, 332, 333. In *Kneedler v. Lane*, *supra*, the Conscription Act of 1863, was sustained under the power to raise armies; and in *United States v. Scott*, 3 Wall. 642, and *United States v. Murphy*, 3 Wall. 649, that act was construed, no question of its constitutionality being raised. Under the similar clause in the Constitution of the Confederacy, draft acts were sustained in the confederate

courts. Compulsory militia service has also been enforced by the courts. *Houston v. Moore*, 5 Wheat. 1; *Martin v. Mott*, 12 Wheat. 19. The Act of 1862, *supra*, requiring performance of militia duty, was sustained in *McCall's Case*, 15 Fed. Cas. No. 8669, p. 1225; *In re Griner*, 16 Wisconsin, 423; *Druecker v. Salomon*, 21 Wisconsin, 621; *In re Spangler*, 11 Michigan, 298; *Allen v. Colby*, 47 N. H. 544. As to the power of the State to draft, see *Lanahan v. Birge*, 30 Connecticut, 438, 443; *People ex rel. German Ins. Co. v. Williams*, 145 Illinois, 573, 583; *In re Dassler*, 35 Kansas, 678, 684; *State v. Wheeler*, 141 N. Car. 773, 777. The present act has been sustained in every case which has come before the federal courts.

There is not, as asserted, any common-law right of a soldier not to be sent out of the country. The status of a citizen properly drafted and that of one who has voluntarily enlisted are the same. Our armies have served in all parts of the world, and such service has never been regarded as illegal. *Fleming v. Page*, 9 How. 603, 615. Numerous statutes of the original States provided that the militia might be sent into neighboring States. Compulsory military service is not contrary to the spirit of democratic institutions, for the Constitution implies equitable distribution of the burdens no less than the privileges of citizenship. Whatever the limitations sought to be set upon the Crown, there can be no doubt that power to impress for foreign service resided in Parliament, and was actually exerted. [The discussion of this subject is supported by many references to history.]

The act infringes no provision of the Constitution concerning the militia. The fact that a citizen is a militiaman does not exempt him from service in the National Army. The militia and the National Army are separate institutions, created for separate purposes; and the power of Congress over the former (Art. I, § 8, cl. 15, 16) is not

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in limitation but in extension of the power to raise armies (cl. 12). The law infringes no reserved right of the States over the militia. If there be a conflict between the state and federal powers in this respect, the latter must prevail. *Ex parte Coupland*, 26 Texas, 386, 396, 402; *Burroughs v. Peyton*, 16 Gratt. 470, 475, 483-485; *Jeffers v. Fair*, 33 Georgia, 347, 351, 353; *Ex parte Tate*, 39 Alabama, 254, 268; *Ex parte Bolling, id.*, 609; *Barber v. Irwin*, 34 Georgia, 27, 37; *Simmons v. Miller*, 40 Mississippi, 19, 26; *Kneedler v. Lane, supra*. Otherwise, the power of Congress to raise armies must be nullified. But there is no conflict in fact. The National Government has never impaired the right of the States to keep up the militia. The present law draws into the National Army but a small portion of the militia as a whole, and the withdrawal from possible call for local service is only temporary. Act of June 15, 1917, § 4, 40 Stat. 217. The right of the States to organize and train the militia remaining has been recognized and safeguarded. Act of June 14, 1917, 40 Stat. 181; National Defense Act of June 3, 1916, § 61, 39 Stat. 198. The restrictions of the militia clause are inapplicable. The draft is not based on liability to perform militia duty, but on liability of citizens to render national military service. When Congress has made provision for calling the militia in the past, the words have been addressed to the militia expressly. [Citing numerous federal acts.] The opposing briefs are in conflict as to whether this act calls the militia. The National Defense Act of 1916, in designating all able-bodied male citizens between the ages of 18 and 45 as militiamen, does not call them to militia service, and clearly does not intend to relinquish the power to call citizens into the National Army. The Draft Act does not call the National Guard in its organized form, but operates upon the individuals, for reorganization in national units. Thus to select the trained members of the

National Guard from the body of citizenship is not arbitrary, but reasonable and prudent. However, even if plaintiffs in error were called as militiamen, they would not be entitled to relief in the courts. *Martin v. Mott, supra*; *Luther v. Borden*, 7 How. 1, 44. It is true that the President may not call out the militia for foreign service in time of peace, but in this instance it could not even be said that an emergency had not arisen, or that the President had not wisely exercised his discretion, to repel invasion. 29 Op. Atty. Gen. 322; *Martin v. Mott*, 12 Wheat. 29.

The law imposes neither slavery nor involuntary servitude. The Thirteenth Amendment was intended to abolish only the well-known forms of slavery and involuntary servitude akin thereto, and not to destroy the power of the Government to compel a citizen to render public service. *Butler v. Perry*, 240 U. S. 328, 332; *Robertson v. Baldwin*, 165 U. S. 275, 282; *Clyatt v. United States*, 197 U. S. 207, 216; *Edwards v. United States*, 103 U. S. 471; *People ex rel. German Ins. Co. v. Williams*, 145 Illinois, 573; *Wilson v. New*, 243 U. S. 332, 351; *In re Dassler*, 35 Kansas, 678; and other cases. The legislation affecting the Northwest Territory (the language of the Amendment is used in the Ordinance of 1787) shows that compulsory military service was not regarded as involuntary servitude. See Chase, Statutes of Ohio, vol. 1, pp. 92, 102, 113, 211, 245.

The law is not unconstitutional on the ground that state officials aid in its enforcement. The contention that it denies to the States a republican form of government is without merit and a question which the courts will not consider. *Luther v. Borden, supra*; *Pacific Telephone Co. v. Oregon*, 223 U. S. 118. As to the objection that it imposes duties on state officials, it is sufficient to say that plaintiffs in error, not being state officials, may not raise the objection. In executing the federal

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law state officials are *pro hac vice* federal officials. In the absence of contrary statutory or constitutional provisions of the State, power may be conferred upon state officials as such to execute duties under an act of Congress, as was done during the Civil War in calling out militia.

The law does not delegate legislative authority. It is as specific as is reasonably practicable. Throughout our history the common method of providing for increase in the land forces has been simply to vest authority in the President to raise the necessary troops. [Citing many statutes.]

The act does not infringe the constitutional provisions concerning the judicial power. Art. I, § 8, cl. 9; Art. III, §§ 1, 2. The duties of the boards of exemption are administrative; they determine questions of fact necessary to be ascertained by the Executive in enforcing the law.

The act does not violate the due process clause. It is said that it confers upon the President discretionary and arbitrary powers in the selection of citizens for the draft army and that citizens may be selected upon the whim of a state official. But the act does not require an arbitrary selection. No complaint has been made that it has been arbitrarily or unfairly administered. On the contrary, it provides a fair and orderly method of selection. The individual citizen may incidentally or temporarily be restrained of his liberties in order to protect the liberties of the people as a whole. *Jacobson v. Massachusetts*, 197 U. S. 11, 29.

The law neither establishes a religion nor prohibits its free exercise. Section 4 contains nothing respecting the establishment of religion; on the contrary, it goes so far as to aid in the free exercise of those religions which forbid participation in war.

The law does not deprive of the equal protection of the laws. The Fourteenth Amendment is addressed to

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the States; and, besides, the exemptions are based on sound classification. The law proceeds upon the equitable principle that each citizen should be subject to call for his particular service. Some are exempted from direct military service because they may help more effectively in other ways. Exemptions were allowed by every compulsory service law passed by the States. Quakers and conscientious objectors were frequently exempted in the Revolutionary War. [Citing many acts of the States.]

MR. CHIEF JUSTICE WHITE delivered the opinion of the court.

We are here concerned with some of the provisions of the Act of May 18, 1917, c. 15, 40 Stat. 76, entitled, "An Act to authorize the President to increase temporarily the Military Establishment of the United States." The law, as its opening sentence declares, was intended to supply temporarily the increased military force which was required by the existing emergency, the war then and now flagrant. The clauses we must pass upon and those which will throw light on their significance are briefly summarized:

The act proposed to raise a national army, first, by increasing the regular force to its maximum strength and there maintaining it; second, by incorporating into such army the members of the National Guard and National Guard Reserve already in the service of the United States (Act of Congress of June 3, 1916, c. 134, 39 Stat. 211) and maintaining their organizations to their full strength; third, by giving the President power in his discretion to organize by volunteer enlistment four divisions of infantry; fourth, by subjecting all male citizens between the ages of twenty-one and thirty to duty in the national army for the period of the existing emergency after the proclamation of the President announcing the necessity for their service; and fifth, by providing for

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selecting from the body so called, on the further proclamation of the President, 500,000 enlisted men, and a second body of the same number should the President in his discretion deem it necessary. To carry out its purposes the act made it the duty of those liable to the call to present themselves for registration on the proclamation of the President so as to subject themselves to the terms of the act and provided full federal means for carrying out the selective draft. It gave the President in his discretion power to create local boards to consider claims for exemption for physical disability or otherwise made by those called. The act exempted from subjection to the draft designated United States and state officials as well as those already in the military or naval service of the United States, regular or duly ordained ministers of religion and theological students under the conditions provided for, and, while relieving from military service in the strict sense the members of religious sects as enumerated whose tenets excluded the moral right to engage in war, nevertheless subjected such persons to the performance of service of a non-combatant character to be defined by the President.

The proclamation of the President calling the persons designated within the ages described in the statute was made, and the plaintiffs in error, who were in the class and under the statute were obliged to present themselves for registration and subject themselves to the law, failed to do so and were prosecuted under the statute for the penalties for which it provided. They all defended by denying that there had been conferred by the Constitution upon Congress the power to compel military service by a selective draft, and asserted that even if such power had been given by the Constitution to Congress, the terms of the particular act for various reasons caused it to be beyond the power and repugnant to the Constitution. The cases are here for review because of the constitu-

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tional questions thus raised, convictions having resulted from instructions of the courts that the legal defences were without merit and that the statute was constitutional.

The possession of authority to enact the statute must be found in the clauses of the Constitution giving Congress power "to declare war; . . . to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; . . . to make rules for the government and regulation of the land and naval forces." Article I, § 8. And of course the powers conferred by these provisions like all other powers given carry with them as provided by the Constitution the authority "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Article I, § 8.

As the mind cannot conceive an army without the men to compose it, on the face of the Constitution the objection that it does not give power to provide for such men would seem to be too frivolous for further notice. It is said, however, that since under the Constitution as originally framed state citizenship was primary and United States citizenship but derivative and dependent thereon, therefore the power conferred upon Congress to raise armies was only coterminous with United States citizenship and could not be exerted so as to cause that citizenship to lose its dependent character and dominate state citizenship. But the proposition simply denies to Congress the power to raise armies which the Constitution gives. That power by the very terms of the Constitution, being delegated, is supreme. Article VI. In truth the contention simply assails the wisdom of the framers of the Constitution in conferring authority on Congress and in not retaining it as it was under the Confederation in the several States. Further it is said, the right to provide is not denied by calling for volunteer enlistments, but it does not and

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cannot include the power to exact enforced military duty by the citizen. This however but challenges the existence of all power, for a governmental power which has no sanction to it and which therefore can only be exercised provided the citizen consents to its exertion is in no substantial sense a power. It is argued, however, that although this is abstractly true, it is not concretely so because as compelled military service is repugnant to a free government and in conflict with all the great guarantees of the Constitution as to individual liberty, it must be assumed that the authority to raise armies was intended to be limited to the right to call an army into existence counting alone upon the willingness of the citizen to do his duty in time of public need, that is, in time of war. But the premise of this proposition is so devoid of foundation that it leaves not even a shadow of ground upon which to base the conclusion. Let us see if this is not at once demonstrable. It may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it. Vattel, Law of Nations, Book III, c. 1 & 2. To do more than state the proposition is absolutely unnecessary in view of the practical illustration afforded by the almost universal legislation to that effect now in force.¹ In England it is certain that before the

¹ In the argument of the Government it is stated: "The Statesman's Year-book for 1917 cites the following governments as enforcing military service: Argentine Republic, p. 656; Austria-Hungary, p. 667; Belgium, p. 712; Brazil, p. 738; Bulgaria, p. 747; Bolivia, p. 728; Colombia, p. 790; Chile, p. 754; China, p. 770; Denmark, p. 811; Ecuador, p. 820; France, p. 841; Greece, p. 1001; Germany, p. 914; Guatemala, p. 1009; Honduras, p. 1018; Italy, p. 1036; Japan, p. 1064; Mexico, p. 1090; Montenegro, p. 1098; Netherlands, p. 1119; Nicaragua, p. 1142; Norway, p. 1152; Peru, p. 1191; Portugal, p. 1201; Roumania, p. 1220; Russia, p. 1240; Serbia, p. 1281; Siam, p. 1288; Spain, p. 1300; Switzerland, p. 1337; Salvador, p. 1270; Turkey, p. 1353." See also

Norman Conquest the duty of the great militant body of the citizens was recognized and enforceable. Blackstone, Book I, c. 13. It is unnecessary to follow the long controversy between Crown and Parliament as to the branch of the government in which the power resided, since there never was any doubt that it somewhere resided. So also it is wholly unnecessary to explore the situation for the purpose of fixing the sources whence in England it came to be understood that the citizen or the force organized from the militia as such could not without their consent be compelled to render service in a foreign country, since there is no room to contend that such principle ever rested upon any challenge of the right of Parliament to impose compulsory duty upon the citizen to perform military duty wherever the public exigency exacted, whether at home or abroad. This is exemplified by the present English Service Act.¹

In the Colonies before the separation from England there cannot be the slightest doubt that the right to enforce military service was unquestioned and that practical effect was given to the power in many cases. Indeed

the recent Canadian conscription act, entitled, "Military Service Act" of August 27, 1917, expressly providing for service abroad (printed in the Congressional Record of September 20, 1917, 55th Cong. Rec., p. 7959); the Conscription Law of the Orange Free State, Law No. 10, 1899, Military Service and Commando Law, sections 10 and 28, Laws of Orange River Colony, 1901, p. 855; of the South African Republic, "De Locale Wetten en Volksraadsbesluiten der Zuid-Afr. Republiek," 1898, Law No. 20, pp. 230, 233, article 6, 28; Constitution, German Empire, April 16, 1871, Art. 57, 59, Dodd, 1 Modern Constitutions, p. 344; Gesetz, betreffend Aenderungen der Wehrpflicht, vom 11 Feb. 1888, No. 1767, Reichs-Gesetzblatt, p. 11, amended by law of July 22, 1913, No. 4264, RGBl., p. 593; Loi sur le recrutement de l'armée of 15 July, 1889 (Duvergier, vol. 89, p. 440), modified by act of 21 March, 1905 (Duvergier, vol. 105, p. 133).

¹ Military Service Act, January 27, 1916, 5 and 6 George V, c. 104, p. 367, amended by the Military Service Act of May 25, 1916, 2nd session, 6 and 7, George V, c. 15, p. 33.

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the brief of the Government contains a list of Colonial acts manifesting the power and its enforcement in more than two hundred cases. And this exact situation existed also after the separation. Under the Articles of Confederation it is true Congress had no such power, as its authority was absolutely limited to making calls upon the States for the military forces needed to create and maintain the army, each State being bound for its quota as called. But it is indisputable that the States in response to the calls made upon them met the situation when they deemed it necessary by directing enforced military service on the part of the citizens. In fact the duty of the citizen to render military service and the power to compel him against his consent to do so was expressly sanctioned by the constitutions of at least nine of the States, an illustration being afforded by the following provision of the Pennsylvania constitution of 1776. "That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service when necessary, or an equivalent thereto." Art. 8, (Thorpe, American Charters, Constitutions and Organic Laws, vol. 5, pp. 3081, 3083.)¹ While it is true that the States were sometimes slow in exerting the power in order to fill their quotas—a condition shown by resolutions of Congress calling upon them to comply by exerting their compulsory power to draft and by earnest requests by Washington to Congress that a demand be made upon the States to

¹ See also Constitution of Vermont, 1777, c. 1, Art. 9 (Thorpe, vol. 6, pp. 4747, 3740); New York, 1777, Art. 40 (*id.*, vol. 5, p. 2637); Massachusetts Bill of Rights, 1780, Art. 10 (*id.*, vol. 3, p. 1891); New Hampshire, 1784, pt. 1, Bill of Rights, Art. 12 (*id.*, vol. 4, p. 2455); Delaware, 1776, Art. 9 (*id.*, vol. 1, pp. 562, 564); Maryland, 1776, Art. 33 (*id.*, vol. 3, pp. 1686, 1696); Virginia, 1776, Militia (*id.*, vol. 7, p. 3817); Georgia, 1777, Art. 33, 35 (*id.*, vol. 2, pp. 777, 782).

resort to drafts to fill their quotas¹—that fact serves to demonstrate instead of to challenge the existence of the authority. A default in exercising a duty may not be resorted to as a reason for denying its existence.

When the Constitution came to be formed it may not be disputed that one of the recognized necessities for its adoption was the want of power in Congress to raise an army and the dependence upon the States for their quotas. In supplying the power it was manifestly intended to give it all and leave none to the States, since besides the delegation to Congress of authority to raise armies the Constitution prohibited the States, without the consent of Congress, from keeping troops in time of peace or engaging in war. Article I, § 10.

To argue that as the state authority over the militia prior to the Constitution embraced every citizen, the right of Congress to raise an army should not be considered as granting authority to compel the citizen's service in the army, is but to express in a different form the denial of the right to call any citizen to the army. Nor is this met by saying that it does not exclude the right of Congress to organize an army by voluntary enlistments, that is, by the consent of the citizens, for if the proposition be true, the right of the citizen to give consent would be controlled by the same prohibition which would deprive Congress of the right to compel unless it can be said that although Congress had not the right to call because of state authority, the citizen had a right to obey the call and set aside state authority if he pleased to do so. And a like conclusion demonstrates the want of foundation for the contention that, although it be within the power to call the citizen into the army without his consent, the army into which he enters after the call is to be limited

¹ Journals of Congress, Ford's ed., Library of Congress, vol. 7, pp. 262, 263; vol. 10, pp. 199, 200; vol. 13, p. 299. 7 Sparks, Writings of Washington, pp. 162, 167, 442, 444.

The Emma Goldman Papers

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Selective Draft Law Cases / [Supreme Court of the United States]. — p. 366-390 ; 22 cm. In United States Reports. — Vol. 245 (Jan. 7, 1918).

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in some respects to services for which the militia it is assumed may only be used, since this admits the appropriateness of the call to military service in the army and the power to make it and yet destroys the purpose for which the call is authorized—the raising of armies to be under the control of the United States.

The fallacy of the argument results from confounding the constitutional provisions concerning the militia with that conferring upon Congress the power to raise armies. It treats them as one while they are different. This is the militia clause:

"The Congress shall have power . . . To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions; To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." Article I, § 8.

The line which separates it from the army power is not only inherently plainly marked by the text of the two clauses, but will stand out in bolder relief by considering the condition before the Constitution was adopted and the remedy which it provided for the military situation with which it dealt. The right on the one hand of Congress under the Confederation to call on the States for forces and the duty on the other of the States to furnish when called, embraced the complete power of government over the subject. When the two were combined and were delegated to Congress all governmental power on that subject was conferred, a result manifested not only by the grant made but by the limitation expressly put upon the States on the subject. The army sphere therefore embraces such complete authority. But the duty of exerting the power thus conferred in all its plenitude was not

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366.

made at once obligatory but was wisely left to depend upon the discretion of Congress as to the arising of the exigencies which would call it in part or in whole into play. There was left therefore under the sway of the States undelegated the control of the militia to the extent that such control was not taken away by the exercise by Congress of its power to raise armies. This did not diminish the military power or curb the full potentiality of the right to exert it but left an area of authority requiring to be provided for (the militia area) unless and until by the exertion of the military power of Congress that area had been circumscribed or totally disappeared. This, therefore, is what was dealt with by the militia provision. It diminished the occasion for the exertion by Congress of its military power beyond the strict necessities for its exercise by giving the power to Congress to direct the organization and training of the militia (evidently to prepare such militia in the event of the exercise of the army power) although leaving the carrying out of such command to the States. It further conduced to the same result by delegating to Congress the right to call on occasions which were specified for the militia force, thus again obviating the necessity for exercising the army power to the extent of being ready for every conceivable contingency. This purpose is made manifest by the provision preserving the organization of the militia so far as formed when called for such special purposes although subjecting the militia when so called to the paramount authority of the United States. *Tarble's Case*, 13 Wallace, 397, 408. But because under the express regulations the power was given to call for specified purposes without exerting the army power, it cannot follow that the latter power when exerted was not complete to the extent of its exertion and dominant. Because the power of Congress to raise armies was not required to be exerted to its full limit but only as in the discretion of Congress it was deemed the public

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Selective Draft Law Cases / [Supreme Court of the United States]. — p. 366-390 ; 22 cm. In United States Reports. — Vol. 245 (Jan. 7, 1918).

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Notes: Thirteen shots of twenty-five pages.

interest required, furnishes no ground for supposing that the complete power was lost by its partial exertion. Because, moreover, the power granted to Congress to raise armies in its potentiality was susceptible of narrowing the area over which the militia clause operated, affords no ground for confounding the two areas which were distinct and separate to the end of confusing both the powers and thus weakening or destroying both.

And upon this understanding of the two powers the legislative and executive authority has been exerted from the beginning. From the act of the first session of Congress carrying over the army of the Government under the Confederation to the United States under the Constitution (Act of September 29, 1789, c. 25, 1 Stat. 95) down to 1812 the authority to raise armies was regularly exerted as a distinct and substantive power, the force being raised and recruited by enlistment. Except for one act formulating a plan by which the entire body of citizens (the militia) subject to military duty was to be organized in every State (Act of May 8, 1792, c. 33, 1 Stat. 271) which was never carried into effect, Congress confined itself to providing for the organization of a specified number distributed among the States according to their quota to be trained as directed by Congress and to be called by the President as need might require.¹ When the War of 1812 came the result of these two forces composed the army to be relied upon by Congress to carry on the war. Either because it proved to be weak in numbers or because of insubordination developed among the forces called and manifested by their refusal to cross the border,²

¹ Act of May 9, 1794, c. 27, 1 Stat. 367; Act of February 28, 1795, c. 36, 1 Stat. 424; Act of June 24, 1797, c. 4, 1 Stat. 522; Act of March 3, 1803, c. 32, 2 Stat. 241; Act of April 18, 1806, c. 32, 2 Stat. 383; Act of March 30, 1808, c. 39, 2 Stat. 478; Act of April 10, 1812, c. 55, 2 Stat. 705.

² Upton, *Military Policy of the United States*, pp. 99 *et seq.*

the Government determined that the exercise of the power to organize an army by compulsory draft was necessary and Mr. Monroe, the Secretary of War, (Mr. Madison being President) in a letter to Congress recommended several plans of legislation on that subject. It suffices to say that by each of them it was proposed that the United States deal directly with the body of citizens subject to military duty and call a designated number out of the population between the ages of 18 and 45 for service in the army. The power which it was recommended be exerted was clearly an unmixed federal power dealing with the subject from the sphere of the authority given to Congress to raise armies and not from the sphere of the right to deal with the militia as such, whether organized or unorganized. A bill was introduced giving effect to the plan. Opposition developed, but we need not stop to consider it because it substantially rested upon the incompatibility of compulsory military service with free government, a subject which from what we have said has been disposed of. Peace came before the bill was enacted.

Down to the Mexican War the legislation exactly portrayed the same condition of mind which we have previously stated. In that war, however, no draft was suggested, because the army created by the United States immediately resulting from the exercise by Congress of its power to raise armies, that organized under its direction from the militia and the volunteer commands which were furnished, proved adequate to carry the war to a successful conclusion.

So the course of legislation from that date to 1861 affords no ground for any other than the same conception of legislative power which we have already stated. In that year when the mutterings of the dread conflict which was to come began to be heard and the Proclamation of the President calling a force into existence was issued it

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Notes: Thirteen shots of twenty-five pages.

was addressed to the body organized out of the militia and trained by the States in accordance with the previous acts of Congress. (Proclamation of April 15, 1861, 12 Stat. 1258.) That force being inadequate to meet the situation, an act was passed authorizing the acceptance of 500,000 volunteers by the President to be by him organized into a national army. (Act of July 22, 1861, c. 9, 12 Stat. 268.) This was soon followed by another act increasing the force of the militia to be organized by the States for the purpose of being drawn upon when trained under the direction of Congress (Act of July 29, 1861, c. 25, 12 Stat. 281), the two acts when considered together presenting in the clearest possible form the distinction between the power of Congress to raise armies and its authority under the militia clause. But it soon became manifest that more men were required. As a result the Act of March 3, 1863, c. 75, 12 Stat. 731, was adopted entitled "An Act for enrolling and calling out the National Forces and for other purposes." By that act which was clearly intended to directly exert upon all the citizens of the United States the national power which it had been proposed to exert in 1814 on the recommendation of the then Secretary of War, Mr. Monroe, every male citizen of the United States between the ages of twenty and forty-five was made subject by the direct action of Congress to be called by compulsory draft to service in a national army at such time and in such numbers as the President in his discretion might find necessary. In that act, as in the one of 1814, and in this one, the means by which the act was to be enforced were directly federal and the force to be raised as a result of the draft was therefore typically national as distinct from the call into active service of the militia as such. And under the power thus exerted four separate calls for draft were made by the President and enforced, that of July, 1863, of February and March, 1864, of July and Decem-

ber, 1864, producing a force of about a quarter of a million men.¹ It is undoubted that the men thus raised by draft were treated as subject to direct national authority and were used either in filling the gaps occasioned by the vicissitudes of war in the ranks of the existing national forces or for the purpose of organizing such new units as were deemed to be required. It would be childish to deny the value of the added strength which was thus afforded. Indeed in the official report of the Provost Marshal General, just previously referred to in the margin, reviewing the whole subject it was stated that it was the efficient aid resulting from the forces created by the draft at a very critical moment of the civil strife which obviated a disaster which seemed impending and carried that struggle to a complete and successful conclusion.

Brevity prevents doing more than to call attention to the fact that the organized body of militia within the States as trained by the States under the direction of Congress became known as the National Guard (Act of January 21, 1903, c. 196, 32 Stat. 775; National Defense Act of June 3, 1916, c. 134, 39 Stat. 211). And to make further preparation from among the great body of the citizens, an additional number to be determined by the President was directed to be organized and trained by the States as the National Guard Reserve. (National Defense Act, *supra*.)

Thus sanctioned as is the act before us by the text of the Constitution, and by its significance as read in the light of the fundamental principles with which the subject is concerned, by the power recognized and carried into effect in many civilized countries, by the authority and practice of the colonies before the Revolution, of the States under the Confederation and of the Government

¹ Historical Report, Enrollment Branch, Provost Marshal General's Bureau, March 17, 1866.

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since the formation of the Constitution, the want of merit in the contentions that the act in the particulars which we have been previously called upon to consider was beyond the constitutional power of Congress, is manifest. Cogency, however, if possible, is added to the demonstration by pointing out that in the only case to which we have been referred where the constitutionality of the Act of 1863 was contemporaneously challenged on grounds akin to, if not absolutely identical with, those here urged, the validity of the act was maintained for reasons not different from those which control our judgment. (*Kneedler v. Lane*, 45 Pa. St. 238.) And as further evidence that the conclusion we reach is but the inevitable consequence of the provisions of the Constitution as effect follows cause, we briefly recur to events in another environment. The seceding States wrote into the constitution which was adopted to regulate the government which they sought to establish, in identical words the provisions of the Constitution of the United States which we here have under consideration. And when the right to enforce under that instrument a selective draft law which was enacted, not differing in principle from the one here in question, was challenged, its validity was upheld, evidently after great consideration, by the courts of Virginia, of Georgia, of Texas, of Alabama, of Mississippi and of North Carolina, the opinions in some of the cases copiously and critically reviewing the whole grounds which we have stated. *Burroughs v. Peyton*, 16 Gratt. 470; *Jeffers v. Fair*, 33 Georgia, 347; *Daly and Fitzgerald v. Harris*, 33 Ga. (Supp.) 38, 54; *Barber v. Irwin*, 34 Georgia, 27; *Parker v. Kaughman*, 34 Georgia, 136; *Ex parte Coupland*, 26 Texas, 386; *Ex parte Hill*, 38 Alabama, 429; *In re Emerson*, 39 Alabama, 437; *In re Pille*, 39 Alabama, 459; *Simmons v. Miller*, 40 Mississippi, 19; *Gatlin v. Walton*, 60 N. Car. 333, 408.

In reviewing the subject, we have hitherto considered

it as it has been argued, from the point of view of the Constitution as it stood prior to the adoption of the Fourteenth Amendment. But to avoid all misapprehension we briefly direct attention to that Amendment for the purpose of pointing out, as has been frequently done in the past,¹ how completely it broadened the national scope of the Government under the Constitution by causing citizenship of the United States to be paramount and dominant instead of being subordinate and derivative, and therefore, operating as it does upon all the powers conferred by the Constitution, leaves no possible support for the contentions made, if their want of merit was otherwise not so clearly made manifest.

It remains only to consider contentions which, while not disputing power, challenge the act because of the repugnancy to the Constitution supposed to result from some of its provisions. First, we are of opinion that the contention that the act is void as a delegation of federal power to state officials because of some of its administrative features, is too wanting in merit to require further notice. Second, we think that the contention that the statute is void because vesting administrative officers with legislative discretion has been so completely adversely settled as to require reference only to some of the decided cases. *Field v. Clark*, 143 U. S. 649; *Buttfield v. Stranahan*, 192 U. S. 470; *Intermountain Rate Cases*, 234 U. S. 476; *First National Bank v. Union Trust Co.*, 244 U. S. 416. A like conclusion also adversely disposes of a similar claim concerning the conferring of judicial power. *Buttfield v. Stranahan*, 192 U. S. 470, 497; *West v. Hitchcock*, 205 U. S. 80; *Oceanic Steam Navigation Co. v. Stranahan*, 214 U. S. 320, 338-340; *Zakonaite v. Wolf*, 226 U. S. 272, 275. And we pass without anything but statement

¹ *Slaughter House Cases*, 16 Wall. 36, 72-74, 94-95, 112-113; *United States v. Cruikshank*, 92 U. S. 542, 549; *Boyd v. Thayer*, 143 U. S. 135, 140; *McPherson v. Blacker*, 146 U. S. 1, 37.

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OCTOBER TERM, 1917.

Syllabus.

245 U. S.

the proposition that an establishment of a religion or an interference with the free exercise thereof repugnant to the First Amendment resulted from the exemption clauses of the act to which we at the outset referred, because we think its unsoundness is too apparent to require us to do more.

Finally, as we are unable to conceive upon what theory the exaction by government from the citizen of the performance of his supreme and noble duty of contributing to the defense of the rights and honor of the nation, as the result of a war declared by the great representative body of the people, can be said to be the imposition of involuntary servitude in violation of the prohibitions of the Thirteenth Amendment, we are constrained to the conclusion that the contention to that effect is refuted by its mere statement.

Affirmed.

JONES v. PERKINS, DEPUTY UNITED STATES MARSHAL, ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA.

No. 738. Argued December 13, 14, 1917.—Decided January 7, 1918.

Petitioner sought *habeas corpus* upon the ground that the Selective Draft Law, for disobedience of which he was arrested, was unconstitutional. The constitutional questions he raises having all been decided adversely to him in the *Selective Draft Law Cases*, ante, 366, the court affirms the trial court's order refusing the writ, without, however, departing from the general principle that *habeas corpus* should not anticipate trial in criminal cases, in the absence of exceptional circumstances, and without inquiring whether in this case such circumstances existed.

243 Fed. Rep. 997, affirmed.

JONES v. PERKINS.

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Opinion of the Court.

THE case is stated in the opinion.

Mr. J. Gordon Jones, with whom Mr. Thomas E. Watson was on the brief, for appellant.

The Solicitor General, with whom Mr. Robert Szold was on the brief, for appellees. See ante, 368.

Mr. Hannis Taylor and Mr. Joseph E. Black, by leave of court, filed a brief as *amici curiæ*.

Mr. Walter Nelles, by leave of court, filed a brief as *amicus curiæ*.

MR. CHIEF JUSTICE WHITE delivered the opinion of the court.

Jones, the appellant, was arrested under a warrant charging him with a failure to register as required by the Act of Congress of May 18, 1917, known as the Selective Draft Law, (c. 15, 40 Stat. 76), and after a hearing by a United States Commissioner was committed to custody to await the ensuing term of the United States District Court. Alleging that he was illegally restrained because the statute under the assumed authority of which he was held was repugnant to the Constitution of the United States, he petitioned the court below for a writ of *habeas corpus*. Following a rule to show cause and a hearing on the return thereto, the petition was denied on the ground that the statute was constitutional (243 Fed. Rep. 997), and to reverse the order so adjudging this direct appeal was prosecuted.

It is well settled that in the absence of exceptional circumstances in criminal cases the regular judicial procedure should be followed and *habeas corpus* should not be granted in advance of a trial. *Riggins v. United States*,

The Emma Goldman Papers

[Letter] 1918 Jan. 7, New York [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 23 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Weinberger asks the Supreme Court clerk to wire him the Court's decision and send him a copy of the opinion in Goldman's appeal.

Notes: For reply, see 850712483 and 810206083.

HARRY WEINBERGER
COUNSELLOR AT LAW
381 BROADWAY, NEW YORK
TELEPHONE CANTON 1-1000

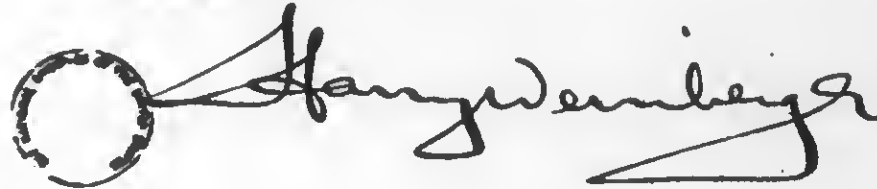
January 7th, 1918

James D. Maher, Esq.,
Clerk, United States Supreme Court,
Washington, D.C.

Dear Sir:-

Confirming my telephone conversation,
kindly send me copy of opinion in the selective
draft cases with bill for same. Also will you
send me telegram collect when opinion is delivered
in the Berkman-Goldman v. United States and Kramer-
Becker v. United States cases on the conspiracy part
of same.

Respectfully yours,



P.S. What is the next opinion day and when does
the Court recess and what date does it reconvene. H.W.

The Emma Goldman Papers

[File Memorandum for Harry Weinberger, 1918 Jan. 8?] / [James? D.? Maher? Clerk? United States Supreme Court]. — 1 p. ; 18 × 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Maher files a reminder to send Harry Weinberger the Supreme Court's opinion in Goldman's appeal.

Notes: Light copy. Reply to 810206030. For follow-up, see 850712483.

202
26169.

Harry Weinberger,
261 Broadway,

Goldman & Berkman
against United States.
Affirmed. Will send
opinion when printed.

New York City.

Weinberger send me opinion.

BEST COPY AVAILABLE

The Emma Goldman Papers

[Letter] 1918 Jan. 8, Washington, D.C. [to] Harry Weinberger, New York / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 29 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Davis informs Weinberger that the Supreme Court decided some of the Draft Law cases in favor of the government, but Goldman's case is still pending.

Notes: Reply to 810113318.



Office of the Solicitor General. SG-WJH-LJB
Washington, D.C.

Jan. 8, 1918.

186233-

Harry Weinberger, Esq.,
261 Broadway,
New York, N. Y.

My dear Sir:

I am in receipt of your letter of the 5th, in relation to the Goldman and Berkman case, together with the copies of your supplemental brief mentioned therein.

The Draft Law cases, with the exception of the Ruthenberg and Goldman-Berkman cases, were yesterday decided in favor of the government. The next opinion day is Monday, January 14, when it is possible the other cases will be decided.

Respectfully,

John W. Davis
Solicitor General.

The Emma Goldman Papers

[Agent Report] In re: Outline of meetings at which Emma Goldman is to lecture—Seditious Utterances, Chicago, 1918 Jan. 8 / E.J. Bamberger, Operative, A[merican] P[rotective] L[eague]. — 2 p.; 24 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bamberger lists Goldman's lecture schedule in Chicago in January 1918.

Notes: Broken type; light copy; barely legible.

15446

REPORT FORM NO. 1

REPORT MADE BY: <u>H. G. Bamberger</u>	PERIOD FOR WHICH MADE: <u>Jan. 5, 1918.</u>
PLACE WHERE MADE: <u>Chicago, Ill.</u>	DATE WHEN MADE: <u>Jan. 8, 1918.</u>

TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION:

In re: Outline of meetings at which Emma Goldman is to lecture - Seditious Utterances.

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:

At Chicago:

E. J. Bamberger, A. P. L. operative No. 1576, finds that Emma Goldman is scheduled to speak at the following places and on the following dates:

On Tuesday, January 8th, 8 P. M., at Berg School, Hoyle Ave. and Division St., Emma Goldman will lecture on Maxim Gorki.

On Thursday, January 10th, 8 P. M., she will lecture at the Northwestern Labor School, 2023 W. Division St., near Rte 9, on Leonid Andreef.

She is to speak under the auspices of the Non-Partisan Radical League, and the proceeds are to go to the defense of American political prisoners. The plugger advertising these two meetings bears union label 358.

On Friday evening, January 11th, 8 P. M., Emma Goldman is to lecture at the Douglas Park Auditorium, Ogden and Kedzie Aves., on "America and the

COPY OF THIS REPORT FURNISHED TO:

CHICAGO OFFICE AND A. P. L. OFFICE PAGE 2 1-971

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The Emma Goldman Papers

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Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bamberger lists Goldman's lecture schedule in Chicago in January 1918.

Notes: Broken type; light copy; barely legible.

E. J. BAMBERGER

1-5-18

In re: Outline of meetings at which Emma Goldman
is to lecture —
Seditious Utterances.

Russian Revolution."

On Saturday evening, January 12th, at 8 P. M.,
Emma Goldman will lecture at the West End Hall, North
Clark and Erie sts., Chicago, Ill., on "Women Martyrs
of Russia."

On Sunday afternoon, January 13th, at 3 P. M.
she will lecture at the West Side Auditorium, Taylor St.
and Racine Ave., the plugger reading, "Farrell lecture —
subject to be announced later — admission 25¢ — questions
and discussions — under the auspices of the Non-Partisan
Radical League."

The plugger announcing the last three meetings
mentioned bears union number 358.

PAGE 2

BEST COPY AVAILABLE

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman, Anarchist—Lecture on "The Bolsheviki, Their True Nature and Aim," Chicago, 1918 Jan. 8 / E.J. Bamberger [Operative, American Protective League].— 20 p. ; 27 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Bamberger describes Goldman's lecture in Chicago on January 5, 1918, on the Bolsheviki. He lists the literature sold, describes the audience, gives a verbatim account of Goldman's speech in nine pages and paraphrases the post-speech announcements, fund raising speeches, and question-and-answer session.

Notes: For same report in different format, see 850205032.

JAN 18 1918

 CHIEF OF STAFF
 COLLEGE DIVISION

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1918

WAR DEPARTMENT

REPORT FORM NO. 1.

REPORT MADE BY: E. J. Bamberger	PERIOD FOR WHICH MADE: Jan. 5, 1918.
PLACE WHERE MADE: Chicago, Ill.	DATE WHEN MADE: Jan. 8, 1918.

TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION:

In re: Emma Goldman, Anarchist -
Lecture on "The Bolsheviki, their True Nature
and Aim."

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:

At Chicago:

The following report is made by E. J. Bamberger,

A. P. L. operative No. 1576.

This meeting was held Saturday, January 5, 1918,
 at 8 P. M., at the East End Hall, Erie and N. Clark Sts.,
 Chicago, Ill.

The plugger announcing this meeting reads as
 follows:

"Do you want to understand the Russian revolution
 and to know what the Bolsheviki are aiming at?

Emma Goldman
 author of 'Anarchism and Other Essays,'
 'The Social Significance of the Modern Drama,'
 Saturday, January 5th, 8 P. M.
 at East End Hall,
 Erie and N. Clark Sts.
 Questions and Discussions
 Admission 25 cents
 Subject - "The Bolsheviki - Their True Nature
 and Aim"

"Miss Goldman is out on bail, pending a decision
 from the United States Supreme Court. She has
 been sentenced to two years' imprisonment in
 the Missouri State Penitentiary and \$10,000 fine.
 This is her last tour, and we hope all of Miss
 Goldman's friends will turn out to bid her farewell.

COPY OF THIS REPORT FURNISHED TO:

CHICAGO OFFICE AND A. P. L. OFFICE

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The Emma Goldman Papers

810402004

[Agent Report] In re: Emma Goldman, Anarchist—Lecture on "The Bolsheviks, Their True Nature and Aim," Chicago, 1918 Jan. 8 / E.J. Bamberger [Operative, American Protective League].— 20 p.; 27 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Bamberger describes Goldman's lecture in Chicago on January 5, 1918, on the Bolsheviks. He lists the literature sold, describes the audience, gives a verbatim account of Goldman's speech in nine pages and paraphrases the post-speech announcements, fund raising speeches, and question-and-answer session.

Notes: For same report in different format, see 850205032.

REPORT FORM NO. 1

E. J. Bamberger

1-5-18

In re: Emma Goldman, Anarchist -

"The Bolsheviks, Their True Nature and Aim."

"Under the auspices of the Non-Partisan Radical League."

"Miss Goldman will also lecture Sunday evening, January 6th, at the Douglas Park Auditorium, Ogden and Kedzie Aves. - subject, 'The Russian Revolution and its Fore-runners.'"

This plugger has union label number 358.

The chairman at this meeting was Dr. Ben Reitman. The hall and balconies were entirely filled, and the aisles were crowded with listeners. Considerable socialist and anarchist literature was sold. The "Mother Earth" bulletin was sold, also "Anarchy on Trial," "Marriage and Love," and "Life and Speeches of Emma Goldman." The "Defense News Bulletin" was distributed free of charge among the audience. Operative noticed Mr. Wm. Nathanson among those present.

Previous to the meeting a Mr. Cook arose and made speeches to aid the sale of anarchistic literature. He is a tall man, wears a goatee, and resembles a doctor somewhat. It is operative's understanding that he is an officer of the League of Humanity. At the outset he said, "If there is anything more impressive than the word of mouth, it is the printed word. You will have a chance to purchase works of leading anarchists at several meetings." He spoke of "great superstitions" in the world.

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REPORT FORM NO. 2

E. J. BAMBERGER

1-5-18

In re: ~~Emma Goldman~~, Anarchist -

"The Bolsheviks, Their True Nature and Aim."

among them government and "Miss Grundy." He then announced for sale the book entitled, "God and the State," by Michael Bakunin, a copy of which operative has purchased. It was then 7:35 P. M. He continued his remarks with, "Miss Goldman will go to jail for several years, and meetings like this will be scarce."

He then announced for sale "Anarchist Morality," by Peter Kropotkin, stating that those who desired it might have a copy for 10¢. In this connection he remarked, "Possibly you are familiar with the philosophy of anarchism. Some condemn it without knowing its philosophy." He then spoke of a book by Voltairine DeCleyre "Selected Works." He said it was a large book, containing almost ~~one~~ thousand pages, and written by an American anarchist. He asked, "Did you ever hear of an American anarchist. Voltairine DeCleyre was born in American, and took her name from Voltaire. She was raised in a Catholic institution, and became a Free Thinker. A large part of her work is Free Thought. A considerable portion of the book is devoted to essays selected by Alexander Berkman." It is the only book of hers that has been published.

He also announced the following books for sale;

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In re: Emma Goldman, Anarchist -

"The Bolsheviks, Their True Nature and Aim."

"Anarchism and American Conditions," "Sex Slavery,"

"Social Significance of the Modern Drama," by Emma Goldman, which books were sold among the audience.

The "Mother Earth" bulletin was sold at 5¢ a copy, and

Mr. Cook announced a little booklet for sale entitled,

"Women and the War," also Miss Goldman's book, "Anar-

chism and what it Really Stands For." "The voice of

the minority," he said, "is often the voice of the

majority." He then spoke of different essays in the

last-named book, among them, "Patriotism," "Hypocrisy,"

"Traffic in Women," and "Marriage and Love." Then an-

nounced the sale of "Anarchism and Other Essays," by

Emma Goldman, at 50¢; "Sabotage - Its Philosophy and

Function," by Walker C. Smith, was spoken of; also a

new book entitled "Women and the War," written by

Charlotte Bruning and printed by John F. Higgins,

printer, 576 W. Monroe St., bearing union label number

80. This book contains the following poem, by Mary

O'Reilly, entitled, "The Answer of Women to the Men

who make war:

"You ask for our sons for armies,
And amid the battles' roar,
You mowed down by thousands,
And dare to ask the mothers of nations
Whose blood-soaked earth is covered by dead and dying,
To suffer the pains of birth."

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In re: Emma Goldman, Anarchist -
"The Bolsheviki, Their True Nature and Aim."

Mr. Cook then stated that he had in his hand a copy of the brief which was prepared by Henry Weinberger, attorney for Emma Goldman and the others in the case pending before the United States Supreme Court. Mr. Cook said that this brief was on the constitutionality of the draft act, and that he would pass a few copies around; that it was only interesting to lawyers. Mr. Cook sold some of the briefs, and said, "You will think they have a chance if you read the book. Its cost is 50¢." He then proceeded to read a poem entitled, "Out of the Darkness." He said he noticed many Federal men present, and he recommended that it be read by all of them (applause).

At 8:23 P. M. Miss Goldman took the platform, being greeted by loud applause. Chairman Reitman turned to her and said, "I think I will be safe in saying 'Fellow Citizens,'" and he asked Miss Goldman if this was all right. She answered, "I think it is all right, for I still believe in free speech." The chairman then told of the conditions in Russia, and said everything that appeared in the newspapers could not be believed; that if anyone in America understands

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In re: Emma Goldman, Anarchist -
"The Bolsheviks, Their True Nature and Aim."

Russian conditions it is Emma Goldman, since she is a Russian herself; that those who in recent years have been called ignorant in Russia are now the leaders. He then said he was pleased to introduce Emma Goldman. Her speech was as follows:

"Friends, the applause that you gave me when I came on the platform is not intended for me but for the Bolsheviks. If you know anything of the great movements for social improvement in the past, you know that at first the movements were met by prosecution and persecution, by ridicule and then by success. The Bolsheviks could not expect to meet with anything else. The Bolshevik movement is not American or Russian, for, in matters of stupidity, no country has a monopoly.

"I know something of the Bolsheviks, and will tell you something of them. They are bound to play a leading part in the political and economic reconstruction of the United States. You are not to believe what you read in the newspapers. I will define the word Bolshevik. The word Bolshevik means the party that represents the majority of interests; it is not what the press dictates. It means the working class, which we in

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E. J. BAMBERGER

1-6-16

In re: Emma Goldman, Anarchist -
The Bolsheviks, Their True Nature and Aim."

America call the fourth estate, the disinherited, the wage slaves, the workers. They represent the party that makes the greatest protest. The Bolshevik party does not believe in reform, but it believes in revolution. It does not, however, believe in bloodshed. The Russian revolution has demonstrated that it is not necessary to take off the heads of the rulers to get reform; that it is only necessary to remove the throne or chair from under the rulers.

"Now, it is necessary for Americans to learn Russian. One language is not enough; it is too provincial to know only one language. It is also necessary to learn the language of the ignorant people of Russia," as they are called.

"At the present time the Bolsheviks comprise the I. W. W.'s, revolutionists and other radicals as well as social democrats. They demand the fundamental reconstruction of society.

"Why is the Bolshevik the most logical of movements since the Russian revolution? The impression is that when the Russian revolutionists overthrew the czar they had accomplished their mission. This is not

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In re: Emma Goldman, Anarchist -
"The Bolsheviki, Their True Nature and Aim."

so. During the last hundred years many men have lost their lives in this cause. The Russian revolutionist wants economic changes. The revolutionists' aim is not to take off the throne the person on the same and put another person on it, which is the understanding of some. The Russian people go deeper and aim higher than the people of other countries. Their aim is to change economic and political conditions. In the past the people were given liberty on paper only.

"The Bolsheviki, or new movement, that began with the overthrow of the Romanoffs and which will not end until the Russians have entire economic freedom, is a real movement for freedom. It is foolish to accuse Lenin and Trotsky of being German spies. This is childish. They are only emblematical of the movement. There are those who have put their ears to the ground. Just as the czar has gone, so so would Trotsky and Lenin go if they did not represent the people. The Russian people know that the governing class has no heart, and they want to make their voices heard in all countries, including the United States.

"Lenin and Trotsky need no defense, but since

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they have been misrepresented in the newspapers, I want to speak of few words for them. Lenin comes from a family of revolutionists. His brother was executed by the czar. Six of his family are in prison in the Russian dungeons. Anyone who says that Lenin is a German spy is only a knave, a fool, and a liar. It may surprise you to know that Lenin's book on political economy was secretly used in the Russian universities for many years previous to the revolution. All the accusations against him emanated from the newspapers of the United States.

"As for Trotsky, it is well he lived in the United States, that Americans have seen the conditions among which he lived. Trotsky, although he had no money to pay rent, would not sell his soul to the devil, the capitalist class. He would not go to work for the press. A subscription was taken at Halifax to pay his way to Russia. Regardless of what you accuse the German kaiser of, you cannot accuse him of overpaying his spies; they had to take up a collection in Halifax to pay Trotsky's way back to Russia. If all those who do not agree with you are German spies, they half of those who are in Germany must be German spies.

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"It is true that until recently the Russian people were considered Asiatic," and she quoted from Lincoln Steffens. "It is well that the Russians have retained their sympathy. The Russians are fortunate in that their movements do not suffer from the constipation of education. The American people must be educated from their education."

"The Russian calls the soil "mother soil" because he has never been given a right to the soil. That is why he was suppressed and repressed. The Russian's aim is that the land should go back to the people. They demand that the working class shall have freedom, not only on paper, to be celebrated on the 4th of July, but to be celebrated every day. The aim is to reconstruct Russia.

"The Bolsheviki want a separate war, it is true, a war to sustain the revolutionists. They do not want a separate peace. They could have gotten peace easily enough, but the United States has hardly recognized the Russian revolution.

" What the Bolsheviki want is that negotiations for peace shall not take place between the ruling classes,

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but between the oppressed people of all countries. That peace can be obtained only by the people themselves; that peace can come, not from the efforts of diplomats, not from a war of imperialism - and that is my idea of the present war in which the United States is engaged. The Russian people were not consulted about the war in Europe any more than the American people were consulted before war was declared by the United States. Any arrangements made and obligations incurred by the ruling class shall be settled by them. They are allies of the countries that want the czar. The Bolsheviks say we will only pay the debts that we have incurred. The Bolsheviks wanted peace. It shall be established without intermediates. The Bolsheviks want no imperialism. They know that while one man is enslaved anywhere in the world they will not be free.

Were the Russian people asked if they wanted to join the Allies? They were forced to join the Allies. They say that our allies are the Americans, the English and the French. We won't desert our allies; that is, the American, the English and the French working people. We are not the allies of those who made the war, the

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allies of the governing class, not the allies of the rulers.

"When the Russians saw that the German peace meant the enslavement of Poland in the recent peace negotiations, they said, 'Nothing doing.' And, knowing the Russian people as I do, I am convinced that the Russian people will not make peace until the people of the world understand that the present-day idea is 'Don't touch private property, but kill all the human beings you want; that is what they were born for anyway.' And so they have learned that the first thing to do is to keep the people clothed. The Russian socialists said to the czar, 'Who gave you the title anyway?' Well, he is gone, and they say to the rest of the nobility, 'Go with him; only he is entitled to the soil who can till the soil.'"

"The Russians took possession of the banks, the money and lands so that they would be able to take care of the people's needs, so that the same thing would not occur there that occurred in France when French money was paid to the Germans, who killed the French working people. The Russian people believe that the working people only are entitled to the money

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in the hands. The Russians want to place everything in the hands of the people, not in the hands of the state. They want to abolish all the ranks; the officers, whose only contribution to war is, as in the Spanish-American war, to shoot the enemy in the back. They have done away with all ranks and degrees and all that divides the working class. They say that the officers are not necessary.

"Don't you see that the Bolsheviks are living up to what you have not lived up to; that if the officers lived through all the privations that the privates have to endure, they would want all wars abolished?"

"The Bolsheviks want the courts abolished, doing away with all judges and lawyers. So the judges and lawyers in Russia are now doing menial work. They say, 'What does a judge or lawyer produce?' They are now teaching the judges and lawyers to make an honest living, so that when the system is changed they will have jobs.

"Some of the finest types in Russia are opposed to the Bolsheviks. This is because they have

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"The Bolsheviks, Their True Nature and Aim."

been deluded into wanting a democracy. They will find out that the people of an autocracy know they are not free, and in a democracy they think they are free when they are not free. In the near future the other revolutionists will appreciate that the Bolsheviks represent all that there is to freedom.

"I should not be surprised if the imperialists of other countries in Europe would make common cause with the anti-Bolsheviks in Russia. Terrible as the German ruling class is, it is not so powerful as the Bolsheviks. They will find themselves 'bucking up' against the 150 million Russians.

"Even if the Russian ideals of the Bolsheviks shall fail, the ideals and effect will still remain. It is just as though one were born color blind and suddenly were enabled to see beautiful sights. We can never be the same again. We will see that the light has risen and will do away with the idea that men go at each other's throats and make war upon each other. The Bolsheviks will embrace the world in one great human family."

This concluded her speech, which was loudly

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applauded. It was then 9:30 P. M.

In response to the applause she again got up, and said: "I am not a prima donna. You have applauded the Bolsheviks that will lure you on to victory. You should be glad you are living in a day when the Bolsheviks are doing what they are now doing."

The chairman then said, "You can understand why a great crowd was at Miss Goldman's trial and why the United States is so interested in Miss Goldman."

He then announced a meeting to be held at the Douglas Park Auditorium, January 6, 1918, at which Miss Goldman would speak; and he said, "If Russia can have a revolution, maybe some other country can have one also. If one looks around in America he will see some conditions that preceded the Russian revolution."

He then announced a meeting to be held on Tuesday, January 8th, at 8 P. M., at the Berg school, Hoyne Ave. and Division St., at which Emma Goldman would speak on Maxim Gorki. He also announced a meeting to be held Friday evening, January 11th, at 8 P. M., at the Douglas Park Auditorium, at which she would speak on America and the Russian revolution; also a meeting of the "Dill Pickles Club," an organization of

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"The Bolsheviks, Their True Nature and Aim."

radicals, to be held at 18 Tucker Pl., behind 863 N. Dearborn St., Chicago, adding that they were having a dance there that afternoon. He told the audience Dr. Jones would speak Thursday evening at 2081 W. Oak St., Chicago; also announced that the "Hobo Club" was open, and all bums might be admitted.

Miss Goldman took the floor again and said:
" There are Bolsheviks in America. They have not the same background as in Russia (meaning the 159 I. W. W.'s who are to be tried in Chicago. You know as much about the I. W. W.'s as you know about the Bolsheviks, from the newspapers."

She then quoted a reporter from the New York Evening Post, to the effect that after making a thorough investigation throughout the West he had come to the conclusion that there was no reason for accusing the I. W. W.'s of crime.

She said that the trial of the 159 I. W. W.'s in Chicago reminded her of the case in Russia where 193 were tried and which brought on the Russian revolution. She said she would try to get a fair trial for the 159 I. W. W.'s if a fair trial is possible in the

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Summary: Bamberger describes Goldman's lecture in Chicago on January 8, 1918, on the Bolsheviks. He lists the literature sold, describes the audience, gives a verbatim account of Goldman's speech in nine pages and paraphrases the post-speech announcements, fund raising speeches, and question-and-answer session.

Notes: For same report in different format, see 850205032.

REPORT FORM NO. 2.

E. J. BAMBERGER

1-5-18

In re: Emma Goldman, Anarchist -
"The Bolsheviks, Their True Nature and Aim."

United States, stating she would open the collection with \$25.00, and asking if there was anyone else who would give \$25.00 to aid the I. W. W.'s, the Bolsheviks of the United States.

The audience then sang some I. W. W. songs, after which it was announced that \$185.00 had been collected. The total collections amounted to \$200.50. Miss Goldman announced, and added that she was glad the I. W. W.'s were not without friends and that they would come to no harm.

She then announced a banquet to be held next Saturday evening on West 12th St., stating that her friends had arranged a farewell feed, to be held at the Co-operative Restaurant. She asked that only those who were subscribers to "Mother Earth" be present at that banquet. The tickets, she stated, would be 75¢, and the feed would last half the week.

She told the audience that since she spoke to them last a great many things had happened; that she had published "Mother Earth" for twelve years, that it was suppressed in June, 1917, that she would not ask for second-class privileges for another paper. She asked for first-class privileges for "Mother Bulletin."

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The Emma Goldman Papers

810402004

[Agent Report] In re: Emma Goldman, Anarchist - Lecture on "The Bolsheviki, Their True Nature and Aim," Chicago, 1918 Jan. 8 / E.J. Bamberger [Operative, American Protective League]. - 20 p. ; 27 x 21 cm.

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Notes: For same report in different format, see 850205032.

REPORT FORM NO. 2

E. J. BAMBERGER

1-5-18

In re: Emma Goldman, Anarchist -
"The Bolsheviki, Their True Nature and Aim."

she said. This booklet contains 28 pages. She asked her friends to subscribe for it if they had not already done so, and urged them to continue reading her writings when she was at her retreat at the University of Jefferson, stating that Mr. Abbott, of "Current Opinion" would mail them out in her absence. She told the audience that her Chicago friends would give her a banquet before she took up her prison fare.

She stated that she and other anarchists had been convicted, not because the state proved their guilt, but because they were anarchists. She told about her trial in New York, and the judge saying he was sorry she was not with the other class as she might help it greatly.

She was asked what her attitude would be if Germany refused the peace proposals. She answered that the Bolsheviki would then proceed to offer peace terms to the American and other people, and if the people did not respond because of stupidity, the Russians would proceed to perpetuate the rebellion.

Kerensky, she said, was a social democrat. He was dazzled by the possibilities. The Bolsheviki succeeded because they understood the needs of the

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The Emma Goldman Papers

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REPORT FORM NO. 2.

1-5-18

E. J. BAMBERGER

In re: Emma Goldman, Anarchist -
"The Bolsheviks, Their True Nature and Aim."

people. Kerensky, she said, was not big enough for the occasion. He did not betray the people, but Russia needs an economic as well as political change. She told her audience that the Russians would clear the country of bribery; that all that is necessary is to take away the power of the rulers, that it is not necessary to take off their heads.

She continued with the statement that the Greek Catholic church is very rich, and that all the church property would be confiscated to make the people rich. She said that a constitutional assembly would be called when an armistice was called; that a constitutional assembly is not expressive of the will of the people any more than congress is expressive of the will of the people of America.

She stated that the Bolsheviks aim to do away with all standing armies and to let all the people be armed. She said that there were 3008 Russian anarchists who went back from the United States to Russia they told of the slums and other conditions and cruelties to the workers in the United States.

She concluded by saying, "Some say that we

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The Emma Goldman Papers

810402004

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REPORT FORM NO. 2.

E. J. BAMBERGER

1-5-18

In re: Emma Goldman, Anarchist -
"The Bolsheviks, Their True Nature and Aim."

must fight until the last man is dead, but Bolsheviks say that what the Germans should do to the Kaiser is what the Russians did to the czar."

Operative noticed reporters with whom he is acquainted, the names and addresses of whom he has, taking notes during Emma Goldman's entire speech. On questioning one of them concerning the matter, she informed operative that they were reporting the speech for Miss Goldman so that it could be printed later on.

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The Emma Goldman Papers

[Letter] 1918 Jan. 9 [New York, to] Thomas E. Watson, Thomson, Ga. / [Harry Weinberger]. — 2 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Having learned that the Supreme Court held the Draft Act constitutional, Weinberger evaluates his part in the appeals. He plans to use political means next to try to change the law.

Notes: Broken type; light copy; portions illegible.

January 9th, 1918

Thomas E. Watson, Esq.,
Thomson,
Georgia.

My dear Mr. Watson:—

The Supreme Court went and did its job. Perhaps it was too much to expect but even the Supreme Court would have the courage to stand up and decide according to the law and the spirit of our institutions. I was speaking to a professor in a law university to-day who told me that he said he thought of the proposition that the Court would not dare to encroach upon and in reference to religion. He said the Court was correct in its position because the argument was unanswerable and therefore they were right in not trying to do the impossible. This professor is in favor of the war and the draft.

I thought perhaps I was prejudiced because the case was my own. I certainly was of the opinion and am still of the opinion that the one blow on religious ground is unconstitutional and in violation of course, that the law is unconstitutional. The Supreme Court has spoken and as far as the law side is concerned our work is done. No question is decided until it is decided right. Brock's position did not decide the question of slavery and whether will this decide the question of liberty. When the war is over it will be the duty of liberty-loving people to send the Thirteenth Amendment to all "former military service in time of peace or war shall be compulsory." The resolutions objection are being sent to jail and the real and the heart of the people are shocked, and the power is broken. I think I say this to make you see that you are not published, saying first of course, and then the next day it is announced, that the legal point of view, that right is over but we have the right to resist. We mean to resist part of the law or to resist the constitution are decided in relation to the people's freedom objection against the law before the courts and water and say it is a very clear law. I am sorry for it in jail.

—3—

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The Emma Goldman Papers

[Letter] 1918 Jan. 9 [New York, to] Thomas E. Watson, Thomson, Ga. / [Harry Weinberger]. — 2 p. ; 28 × 22 cm.

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S. - T.E.W.

What is going to be the new line up for the next Congressional and Senatorial election? What is the present outlook with reference to the next Presidential election? What is your opinion of the Non-Partisan League? The Non-Partisan League and the Socialist Party seem about the only hope. If the war should end soon, and it looks to me as if the Bolsheviks are forcing everybody's hand especially since it will be the relative treaties then the gag will be taken from the mouths of all.

I still have some hope that the Court will decide in my favor of the minimum-wages and maximum-hours cases on the first but there was no unanimity and that the indictment as a matter of real fact did not charge conspiracy but accessories before the fact.

Now that the battle is over I feel that it was worth while. Someone wrote to me we can not always achieve success but we can at least deserve success and I feel that your battle and my battle and the rest who fought these test cases deserved success and that history will decide in our favor.

I am

Sincerely,

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The Emma Goldman Papers

[Letter] 1918 Jan. 9, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Maher promises to wire Weinberger the Supreme Court's decision and to send a copy of the opinion as soon as it decides Goldman's appeal.

Notes: Reply to 810206030.

OFFICE OF THE CLERK,
Supreme Court of the United States,
Washington, D. C.

January 9, 1918.

Harry Weinberger, Esq.,
New York City.

Dear Sir:-

Referring to your letter of the 7th instant, I beg to say that I have a memorandum to send you copies of the opinions in the Draft cases as soon as same are printed.

I also have a memorandum to wire you as soon as the court announces a decision in the case of Berkman-Goldman v. The United States and the Kramer cases, Nos. 702, etc., October Term, 1917.

The court will not take another recess until February.

Yours truly,

JAMES D. MAHER, Clerk.

By *W. R. S.* Ass't.

TFD.

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman—Anarchist, Los Angeles, 1918 Jan. 9 / C.L. Keep [Agent, Bureau of Investigation, Department of Justice]. — 1 p. ; 27 x 19 cm. Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Keep reports that a German sympathizer received a copy of the *Mother Earth Bulletin* in the mail. He asks if it is mailable.

Notes: Light copy; barely legible.

G. L. Keep

Los Angeles

Jan. 9 1918

In re EMMA GOLDMAN
Anarchist

RECEIVED
JAN 18 1918
U.S. DEPT. OF JUSTICE

At Los Angeles, Cal.:-

Postmaster Parlier, at Parlier, Cal. sent the following letter to Deputy U. S. Marshal Sig. J. Shannon, Fresno, Cal., which the latter has forwarded to this office:

"The enclosed was found in Parlier and was handed to me, and I am sending it to you thinking it might be of interest and value to you. Harold Hansen (to whom the same was addressed) is known to be a German sympathizer and has been investing in German securities."

With the above letter was enclosed a mimeographed letter, the original of which had been signed by Emma Goldman, transmitting a pamphlet entitled "Mother Earth Bulletin, Vol. 1, No. 3, December, 1917, New York." This letter and the Bulletin, together with the envelope in which they were enclosed are attached to the original copy of this report for the Chief, in Washington; and it is respectfully requested that this office be notified whether or not such matter is mailable.

Some of the articles seem to approach very close to sedition; and it will be noted that some of them are signed by Alexander Berkman, now being tried with other I. W. Ws at Chicago Ill.

Further report will be made in this matter.

Chicago

U.S. Deputy Marshal-Fresno

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The Emma Goldman Papers

810402044

[Memorandum] 1918 Jan. 10, Washington [D.C. to Ralph H. Van Deman] Chief, Military Intelligence [Division, War Department], Washington [D.C.] / Edmund Leigh, Plant Protection [Section] Military Intelligence [Division, War Department].—
1 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Leigh forwards a report to the head of Military Intelligence.

Notes: For enclosed report, see 810402045.

2-1
4 Encls.

2-1 10110-544
JAN 12 1918
WAR DEPARTMENT

Washington - January 10th, 1918.

From Military Intelligence - Plant Protection.
To Chief of Military Intelligence, Washington.
Subject I. W. W. Activities.

1. The attached copy of a report made by one of our agents for your information.

Edmund Leigh
MILITARY INTELLIGENCE
PLANT PROTECTION.

7/4

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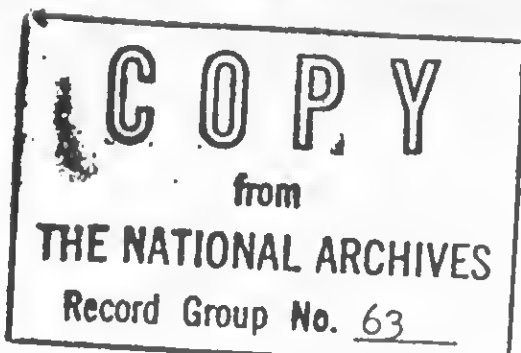
The Emma Goldman Papers

[Letter] 1918 Jan. 10, Washington, D.C. [to] George Creel, Chairman, Committee on Public Information, Washington, D.C. / [Thomas] W[at]t Gregory, Attorney General, Department of Justice. — 2 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 63.

Summary: Gregory informs Creel that he has told Harry Weinberger that Goldman may lecture on any legal topic, but he will not issue a lecture permit to anyone. He asks Creel not to answer Weinberger's letter.

Notes: Reply to 810113162 and 810113164. For reply, see 810113166.



Record Group 63: Records of the Committee on Public Information
Correspondence of the Chairman — OPI 1-A1



Office of the Attorney General,
Washington, D.C.

G-P

January 10, 1918.

Mr. George Creel,
Chairman, Committee on Public Information,
Washington, D. C.

Dear Mr. Creel:

I am in receipt of yours of the 7th, accompanied by a letter addressed to you by Harry Weinberger, 261 Broadway, New York. You state that you do not care to write an answer until you are informed of my position.

Weinberger is attorney for Emma Goldman and Alexander Berkman.

I assume that you are acquainted with their criminal record and present status before the courts of the country. Weinberger has deluged this Department with letters in regard to addresses by Emma Goldman. He thoroughly understands my attitude, ie, that no interference with meetings which do not violate the law is contemplated; but I have repeatedly refused, and shall continue to refuse, to give any letter stating that the Government has no objection to speeches by Emma Goldman, or anyone else, on specific subjects, such as the Russian situation, literature, etc. Indeed, we are issuing no permits to anyone to deliver lectures on any subject. We simply hold them responsible in case they cross the line in delivering

T. W. Gregory

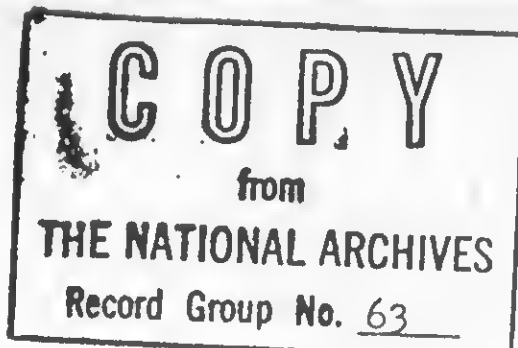
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Notes: Reply to 810113162 and 810113164. For reply, see 810113166.



Record Group 63: Records of the Committee on Public Information
Correspondence of the Chairman — OPI 1-A1

-2-

such lectures.

My Department is charged with the enforcement of the laws against sedition, disloyalty and treason, and I, of course, assume that you do not contemplate writing a letter to Mr. Weinberger stating the attitude of the Government with respect to Emma Goldman's activities.

Respectfully,

Attorney General.

The Emma Goldman Papers

[Memorandum] 1918 Jan. 11, New York [to] W.L. Campbell [Military Intelligence Division, War Department, New York] / [John H.] Brady and [W.F.] Cahill, Inspectors [Military Intelligence Division, War Department]. — 1 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Inspectors Brady and Cahill of Army Intelligence report the results of their search of Lillie Winner's apartment in relation to the Guillotine Club.

Notes: Broken type; light copy. For related document, see 810402043.

Enc. 8

New York, January 11th, 1918.

10110-524

FROM: Inspectors Brady and Cahill.

TO: Lieutenant W. L. Campbell.

SUBJECT: Goldman, Louis Weitzenkorn and Miss Winner case;

Went into the home of Miss Winner at 29 Charles Street with Joseph B. Erber and examined all papers of Miss Winner. Attached please find her photograph. Noticed that her letters up to about September were very revolutionary. Attached please find a number of her letters. Noticed a card from the Liberal Club, 159 MacDougall Street, John McFadden, Clerk. Also noticed a receipt for 23 Christopher Street, one month, \$85. made out to Miss Winner "Paid". Also noticed the same of Sadie Cullen, 23 Christopher Street. Also noticed telephone calls that had been called by Miss Winner. Also that she has an account with the Excelsior Savings Bank, 2385 Sixth Avenue and also with the Greenwich Savings Bank, 1821 Broadway. Also noted among her papers the following new applications to The Guillotine: David Gilman, 61 Fourth Avenue, references: M. Fine, Mullard and H. Dumar, all members. Also Charles Zerner, 240 East 12th Street. References: Julius Weinstein, Abie Beckerman and Doc Cohen.

Among the papers of Miss Alice Gutkind, the attached letter from Germany, dated three years ago, was found. Translation by Inspector S. Bakker of this office. Also attached please find seven business cards of Miss Gutkind, showing that she had been at different places. Also attached is letter from Fred H. ? to Miss Gutkind, re McCarthy, and code. Also letters &c. Also went into the room of Mr. Stout, but could not find even a letter there.

Respectfully submitted,

25

The Emma Goldman Papers

[Report on] I.W.W. Anarchists, San Diego [Calif.] 1918 Jan. 11 / [Agents 101 and 102, Military Intelligence Division, War Department]. — 1 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agents 101 and 102 report on their meeting with George Edwards, a radical musician. Edwards is a friend of Goldman, no longer involved in the anarchist movement.

Notes: For related documents, see 810402032 and 810402039.

San Diego, January 11, 1918,

10110-364
10
DEPARTMENT

SUBJECT: I. W. W. Anarchists,

Location: San Diego,

We went to La Jolla yesterday in search of George Edwards, the radical musician, and composer, and found that he is living about one mile from the little town of La Jolla and on looking for him we learned that he was away from home and his return was uncertain.

We then returned to San Diego and later got into communication with Mr. Edwards by telephone and arranged for him to take dinner with us in San Diego today, which he did, but owing to a previous engagement he was unable to be with us for more than an hour.

Mr. Edwards informed us that at this time he is not keeping in very close touch with the radicals in San Diego, and that they are not so active here as in Los Angeles and other places, probably because of the treatment of Emma Goldman and Ben Reitman some time ago wherein Reitman was tarred and feathered and both were driven out of town by a vigilance committee.

We learned that Mr. Edwards is a personal friend of Emma Goldman and all the leaders of her faction, and knows many of the radicals throughout the country, who are known to the public as professors, writers and men who have a particular calling. He mentioned one who lives at Camel-by-the-Sea, named Heath Bawden who is known as a philosopher and writer, and has been connected with some university but he did not say which one.

Mr. Edwards does not seem to know much about what is going on here among the radicals and is following his profession as music teacher among people who are not identified with the anarchist movement.

Mr. Edwards invited us to call on him at his residence in La Jolla, Sunday afternoon, where we are to meet some of his friends at a musical and at this meeting we will have more time to talk with him and may gather information about the situation here, that will give us a line on something definite.

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman, Anarchist—Lecture on "The Bolsheviki, Their True Nature and Aim," Chicago, 1918 Jan. 11 / E.J. Bamberger [Operative, American Protective League]. — 12 p. ; 27 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Notes: Same text as 810402004, but in different format and with different date.

15446

REPORT MADE BY American Pro. League	PLACE WHERE MADE Chicago, Ill.	DATE WHEN MADE 1-11-18	PERIOD FOR WHICH MADE 1-5-18
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION In Re: Emma Goldman, Anarchist Lecture on "The Bolsheviki, their True Nature and aim"			
STATEMENT OF OPERATIONS EVIDENCES COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC. <p><u>AT CHICAGO</u></p> <p>The following report is made by E. J. Bamberger, A.P.L. Operative No. 1576.</p> <p>"This meeting was held Saturday, January 5, 1918, at 8 P.M., at the East End Hall, Erie and N. Clark Sts., Chicago</p> <p>The plugger announcing this meeting reads as follows:</p> <p>Do you want to understand the Russian revolution and to know what the Bolsheviki are aiming at?</p> <p><u>Emma Goldman</u>, author of "Anarchism and Other Essays" "The Social Significance of the Modern Drama." Saturday, January 5th, 8 P. M. at East End Hall, Erie & N. Clark Sts. Questions and Discussions -- Admission 25 cents. -- Subject -- "The Bolsheviki Their True Nature and Aim."</p> <p>"Miss Goldman is out on bail, pending a decision from the United States Supreme Court. She has been sentenced to two years' imprisonment in the Missouri State Penitentiary and \$10,000 fine. This is her last tour, and we hope all of Miss Goldman's friends will turn out to bid her farewell.</p> <p>Under the auspices of the <u>Non-Partisan Radical League</u> Miss Goldman will also lecture Sunday evening, January 6th, at the Douglas Park Auditorium, Ogden and Kedzie Aves. -- Subject, "The Russian Revolution and its Fore-runners."</p> <p>This plugger has union label number 358.</p> <p>The chairman at this meeting was Dr. Ben Reitman. The hall and balconies were entirely filled, and the aisles were crowded with listeners. Considerable socialist and anarchist literature was sold. The "Mother Earth" bulletin was sold, also</p>			
COPY OF THIS REPORT FURNISHED TO Chicago Office			58

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The Emma Goldman Papers

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In Re: Emma Goldman

"Anarchy on Trial," "Marriage and Love," and "Life and Speeches of Emma Goldman." The "Defense News Bulletin" was distributed free of charge among the audience. Operative notice was given among those present. REC-81 1918
JAN 31 1918
Bureau of Investigation
Department of Justice

Previous to the meeting a Mr. Cook arose and made speeches to aid the sale of anarchistic literature. He is a tall man, wears a foatee, and resembles a doctor somewhat. It is the Operative's understanding that he is an officer of the League of Humanity. At the outset he said, "If there is anything more impressive than the word of mouth, it is the printed word. You will have a chance to purchase works of leading anarchists at several meetings." He spoke of "great superstitions" in the world, among them government and "Mrs. Grundy." He then announced for sale the book entitled, "God and the State," by Michael Bakunin, a copy of which operative has purchased. It was then 7:35 P.M. He continued his remarks with, "Miss Goldman will go to jail for several years, and meetings like this will be scarce."

He then announced for sale "Anarchist Morality." by Peter Kropotkin, stating that those who desired it might have a copy for 10¢. In this connection he remarked, "Possibly you are familiar with the philosophy of anarchism. Some condemn it without knowing its philosophy." He then spoke of a book by Voltaireine DeCleyre "Selected Works." He said it was a large book, containing almost one thousand pages, and written by an American anarchist. He asked, "Did you ever hear of an American anarchist? Voltaireine DeCleyre was born in America, and took her name from Voltaire. She was raised in a Catholic institution, and became a Free Thinker. A large part of her work is Free Thought. A considerable portion of the book is devoted to essays selected by Alexander Berkman. It is the only book of hers that has been published.

He also announced the following books for sale:

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REPORT PAGE NO. 1

-3-

"Anarchism and American Conditions," "Sex Slavery", "Social Significance of the Modern Drama," by Emma Goldman, which books were sold among the soldiers. The "Mother Earth" bulletin was sold at 5 cents a copy, and Mr. Cook announced a little booklet for sale entitled "Women and the War", also Miss Goldman's book, "Anarchism and what it Really Stands For." "The voice of the minority he said is often the voice of the majority." He then spoke of different essays in the last-named book, among them, "Patriotism", "Hypocrisy", "Traffic in Women" and "Marriage and Love". Then announced the sale of Anarchism and other essays, by Emma Goldman at 50 cents "Sabotage - Its Philosophy and Function," by Walker C. Smith, was spoken of, also a new book entitled, "Women and the War", written by Charlotte Bruning and printed by John F. Higgins printer, 576 W. Monroe St., bearing union label number 80. This book contains the following poem, by Mary O'Reilly, entitled, "The Answer of Women to the Men who make War:

"You ask for our sons for armies,

And amid the battles' roar,

You mowed down by thousands,

And dare to ask the mothers of nations

Whose blood-soaked earth is covered by dead and dying

To suffer the pains of birth."

Mr. Cook then stated that he had in his hand a copy of a brief which was prepared by Henry Weinberger, attorney for Emma Goldman and the others in the case pending before the United States Supreme Court. Mr. Cook said that this brief was on the constitutionality of the draft act, and that he would pass a few copies around, that it was only interesting to lawyers. Mr. Cook sold some of the briefs, and said, "You will think they have a chance if you read the book. Its cost is 50 cents." He then proceeded to read a poem entitled, "Out of the Darkness." He said he noticed many Federal men present, and he recommended that it be read by all

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The Emma Goldman Papers

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-4-

of them (applause).

At 8:25 P. M. Miss Goldman took the platform, being greeted by loud applause. Chairman Reitman turned to her and said; "I think I will be safe in saying "Fellow Citizens," and he asked Miss Goldman if this was allright. She answered, "I think it is allright, for I still believe in free speech." The chairman then told of the condition in Russia, and said everything that appeared in the newspapers could not be believed, that if anyone in America understands Russian conditions it is Emma Goldman, since she is a Russian herself, that those who in recent years have been called ignorant in Russia are now the leaders. He then said he was pleased to introduce Emma Goldman. Her speech was as follows:

"Friends the applause that you gave me when I came on the platform is not intended for me but for the Bolsheviki. If you know anything of the great movements for social improvement in the past, you know that at first the movements were met by prosecution and persecution, bu ridicule and then by success. The Bolsheviki could not expect to meet with anything else. The Bolsheviki movement is not American or Russian, for, in matters of stupidity no country has a monopoly.

"I know something of the Bolsheviki, and will tell you something of them. They are bound to play a leading part in the political and economic reconstruction of the United States. You are not to believe what you read in the newspapers. I will define the word Bolsheviki. The word Bolsheviki means the party that represents the majority of interests; it is not what the press dictates. It means the working class, which we in America call the fourth estate, the disinherited, the wage slaves, the workers. They represent the party that makes the greatest progress. The Bolsheviki party does not believe in reform, but it believes in revolution. It does not however, believe in bloodshed. The Russians

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revolution has demonstrated that it is not necessary to take off the heads of the rulers to get reform; that it is only necessary to remove the throne or chair from under the rulers.

"Now it is necessary for Americans to learn Russian. One language is not enough; it is too provincial to know only one language. It is also necessary to learn the language of the ignorant people of Russia, as they are called.

"At the present time the Bolsheviki comprise the I.W.W.'s, revolutionists and other radicals as well as social democrats. They demand the fundamental reconstruction of society.

"Why is the Bolsheviki the most logical of movements since the Russian revolution? The impression is that when the Russian revolutionists overthrew the czar they had accomplished their mission. This is not so. During the last hundred years many men have lost their lives in this cause. The Russian revolutionist wants economic changes. The revolutionists' aim is not to take off the throne the person on the same and put another person on it, which is the understanding of some. The Russian people go deeper and aim higher than the economic and political conditions. In the past the people were given the liberty of the press only.

"The Bolsheviki, or new movement, that began with the overthrow of the Romanoffs and which will not end until the Russians have entire economic freedom is a real movement for freedom. It is foolish to accuse Lenin and Trotsky of being German spies. This is childish. They are only emblematic of the movement. There are those who have put their ears to the ground. Just as the czar has gone, so would Trotsky and Lenin go if they did not represent the people. The Russian people know that the governing class has no heart, and they want to make their voices heard in all countries including the United States

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"Lenin and Trotsky need no defense, but since they have been misrepresented in the newspapers, I want to speak a few words for them.

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then. Lenine comes from a family of revolutionists. His brother was executed by the czar. Six of his family are in prison in the Russian dungeons. Anyone who says that Lenine is a German spy is only a knave, a fool, and a liar. It may surprise you to know that Lenine's book on political economy was secretly used in the Russian universities for many years previous to the revolution. All the accusations against him emanated from the newspapers of the United States.

As to Trotsky it is well he lived in the United States, that Americans have seen the conditions among which he lived. Trotsky although he had no money to pay rent, would not sell his soul to the devil, the capitalist class. He would not go to work for the press. A subscription was taken at Halifax to pay his way to Russia. Regardless of what you accuse the German kaiser of, you cannot accuse him of overpaying his spies; they had to take up a collection in Halifax to pay Trotsky's way back to Russia. If all those who do not agree with you are German spies, they half of those who are in Germany must be German spies.

"It is true that until recently the Russian people were considered Asiatic," and she quoted from Lincoln Steffens. "It is well that the Russians have retained their sympathy. The Russians are fortunate in that their movement do not suffer from the constipation of education. The American people must be educated from their education.

"The Russian calls the soil "mother soil" because he has never been given a right to the soil. That is why he was suppressed and repressed. The Russian's aim is that the land should go back to the people. They demand that the working class shall have freedom not only on paper, to be celebrated on the 4th of July, but to be celebrated every day. The aim is to reconstruct Russia.

"The Bolsheviki want a separate war, it is true, a war to 63 sustain the revolutionists. They do not want a separate peace.

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They could have gotten peace easily enough, but the United States has hardly recognised the Russian revolution.

"What the Bolsheviki want is that negotiations for peace shall not take place between the ruling classes, but between the oppressed people of all countries. That peace can be obtained only by the people themselves; that peace can come, not from the efforts of diplomats, not from war in which the United States is engaged. The Russian people were not consulted about the war in Europe any more than the American people were consulted before the war was declared by them. Any arrangements made and obligations incurred by the ruling class shall be settled by them. They are allies of the countries that want the czar. The Bolsheviki say we will only pay the debts that we have incurred. The Bolsheviki wanted peace. It shall be established without intermediates. The Bolsheviki want no imperialism. They know that while one man is enslaved anywhere in the world they will not be free.

"Were the Russian People asked if they wanted to join the Allies? They were forced to join the Allies. They say that our Allies are the Americans, the English and the French. We won't desert our allies; that is, the American, the English and the French working people. We are not the allies of those who made the war, the allies of the governing class, nor the allies of the rulers.

"When the Russians saw that the German peace meant the enslavement of Poland in the recent peace negotiations, they said, 'Nothing doing.' And, knowing the Russian people as I do, I am convinced that the Russian people will not make peace until the people of the world understand that the present-day idea is Don't touch private property, but kill all the human beings you want; that is what they were born for anyway."

And so they have learned that the first thing to do is to keep the people clothed. The Russian socialists said to the czar

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"Who gave you the title anyway?" Well he is gone, and they say to the rest of the nobility. "Go with him; only he is entitled to the soil who can till the soil."

"The Russians took possession of the banks, the money and lands so that they would be able to take care of the people's needs, so that the same thing would not occur there that occurred in France when French money was paid to the Germans, who killed the French working people. The Russian people believe that the working people only are entitled to the money in the banks. The Russians want to place everything in the hands of the people, not in the hands of the state. They want to abolish all the ranks, the officers, whose only contribution to war is, as in the Spanish American war, to shoot the enemy in the back. They have done away with all ranks and degrees and all that divides the working class. They say that the officers are not necessary."

"Don't you see that the Bolsheviki are living up to what you have not lived up to, that if the officers lived through all the privations that the privates have to endure, they would want all wars abolished."

"The Bolsheviki want the courts abolished, doing away with all judges and lawyers. So the judges and lawyers in Russia are now doing menial work. They say, "What does a judge or lawyer produce?" They are now teaching the judges and lawyers to make an honest living, so that when the system is changed they will have jobs."

"Some of the finest types in Russia are opposed to the Bolsheviki. This is because they have been deluded into wanting a democracy. They will find out that the people of an autocracy know they are not free, and in a democracy they think they are free when they are not free. In the near future the other revolutionists will appreciate that the Bolsheviki represent all that there is to freedom."

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"I should not be surprised if the imperialists of other countries in Europe would make common cause with the Anti-Bolsheviks in Russia. Terrible as the German ruling people are, it is not so powerful as the Bolsheviki. They will find themselves "bucking up" against the 150 million Russians.

"Even if the Russian ideal of the Bolsheviki shall fall, the ideals and effect will still remain. It is just as though one were born color blind and suddenly were enabled to see beautiful sights. We can never be the same again. We will see that the light has risen and will do away with the idea that men go at each other's throats and make war upon each other. The Bolsheviki will embrace the world in one great human family."

This concluded her speech, which was loudly applauded. It was then 9:30 P.M.

In response to the applause she again got up and said: "I am not a prima donna. You have applauded the Bolsheviki that will lure you on to victory. You should be glad you are living in a day when the Bolsheviki are doing what they are now doing."

The chairman then said, "You can understand why a great crowd was at Miss Goldman's trial and why the United States is so interested in Miss Goldman."

He then announced a meeting to be held at the Douglas Park Auditorium, January 6, 1918, at which Miss Goldman would speak and he said, "If Russia can have a revolution, maybe some other country can have one also. If one looks around in America he will see some conditions that preceded the Russian revolution."

He then announced a meeting to be held on Tuesday, January 8th, at 8 P.M., at the Berg school, Hoyne Ave., and Division St., at which Emma Goldman would speak on Maxim Gorki. He also announced a meeting to be held Friday evening, January 11th, at 8 P.M., at the Douglas Park Auditorium, at which she would speak on America and the Russian revolution, also a meeting of the "Dilemma" Club.

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"Pickles Club" an organization of radicals, to be held at 18 Tucker Pl., behind 863 N. Dearborn St., Chicago, adding that they were having a dance there that afternoon. He told the audience Dr. Jones would speak Thursday evening at 2081 W. Oak St. Chicago; also announced that the "Hobo Club" was open, and all bums might be admitted.

Miss Goldman took the floor again and said; "There are Bolsheviks in America. They have not the same background as in Russia (meaning the 159 I.W.W.'s who are to be tried in Chicago. You know as much about the I.W.W.'s as you know about the Bolsheviks, from the newspapers.

She then quoted a reported from the New York Evening Post to the effect that after making a thorough investigation throughout the West he had come to the conclusion that there was no reason for accusing the I.W.W.'s of crime.

She said that the trial of the 159 I.W.W.'s in Chicago reminded her of the case in Russia where 193 were tried and which brought on the Russian revolution. She said she would try to get a fair trial for the 159 I.W.W.'s if a fair trial is possible in the United States, stating she would open the collection with \$25.00 and asking if there was anyone else who would give \$25.00 to aid the I.W.W.'s the Bolsheviks of the United States.

The audience then sang some I.W.W. songs, after which it was announced that \$185.00 had been collected. The total collections amounted to \$200.50. Miss Goldman announced, and added that she was glad the I.W.W.'s were not without friends and that they would come to no harm.

She then announced a banquet to be held next Saturday evening on West 12th St., stating that her friends had arranged a farewell feed, to be held at the Co-Operative Restaurant. She asked that only those who were subscribers to "Mother Earth" be present at the banquet. The tickets, she stated, would be 75 cents.

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and the feed would last half the week.

She told the audience that since she spoke to them last a great many things had happened, that she had published "Mother Earth" for twelve years, that it was suppressed in June, 1917, that she would not ask for second-class privileges for another paper. She asked for first-class privileges for "Mother Bulletin"

"The Bolsheviks, Their True Nature and Aim." she said this booklet contains 28 pages. She asked her friends to subscribe for it if they had not already done so, and urged them to continue reading her writings when she was at her retreat at the University of Jefferson, stating that Mr. Abbott, of "Current Opinion" would mail them out in her absence. She told the audience that her Chicago friends would give her a banquet before she took up her prison fare.

She stated that she and other anarchists had been convicted, not because the state proved their guilt, but because they were anarchists. She told about her trial in New York, and the judge saying he was sorry she was not with the other class as she might help it greatly.

She was asked what her attitude would be if Germany refused the peace proposals. She answered that the Bolsheviks would then proceed to offer peace terms to the American and other people and if the people did not respond because of stupidity, the Russians would proceed to perpetuate the rebellion.

Kerensky, she said, was a social democrat. He was dazzled by the possibilities. The Bolsheviks succeeded because they understood the needs of the people. Kerensky, she said, was not big enough for the occasion. He did not betray the people, but Russia needs an economic as well as political change. She told her audience that the Russians would clear the country of bribery; that all that is necessary is to take away the power of the rulers, that it is not necessary to take off their heads.

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She continued with the statement that the Greek Catholic church is very rich, and that all the church property would be confiscated to make the people rich. She said that a constitutional assembly would be called an armistice was called; that a constitutional assembly is not expressive of the will of the people any more than congress is expressive of the will of the people of America.

She stated that the Bolsheviki aim to do away with all standing armies and to let all the people be armed. She said that there were 3009 Russian anarchists told of the slums and other conditions and cruelties to the workers in the United States.

She concluded by saying, "Some say that we must fight until the last man is dead, but Bolsheviki say that what the Germans should do to the Kaiser is what the Russians did to the czar." Operative noticed reporters with whom he is acquainted, the names and addresses of whom he has, taking notes during Emma Goldman's entire speech. On questioning one of them concerning the matter, she informed operative that they were reporting the speech for Miss Goldman so that it could be printed later on.

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TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION In Re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners." — Seditious Utterances.			
STATEMENT OF OPERATIONS EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC. AT CHICAGO Following is report of E. J. Bamberger, A. P. L. operative No. 1576, covering meeting of January 6, 1918, held at the Douglas Park Auditorium, Ogden and Kedzie Aves., Chicago, Ill., at 8 P. M., at which Emma Goldman spoke on "The Russian Revolution and its Forerunners," the admission charge being 25¢. Owing to the snow-storm and blizzard and consequent difficulty in reaching the hall, I did not arrive until 8:55 P. M., at which time I understood Emma Goldman had just begun to speak. She spoke of conditions in Russia, and told of peasant uprisings led by heroic people, stating that this had permeated the entire Russian literature. She told of Stakharasim, the first peasant revolutionist, whose desire was to abolish serfdom. It was to accomplish this he wanted to do away with the czar in 1620. "Stakharasim," she said, "is the great illuminating person in Russian revolutionary history. The present revolution must be accredited to him. "Then it was Masikoff who spread these ideas among the the Russian people. He helped to fertilize the soil for the Russian revolution. Queen Catherine helped to convict him, because he talked against the Greek Catholic Church. She was supposed to be a "free thinker." Masikoff was one of the forerunners of the Russian revolution; he was one who helped to prepare the soil for the present revolution. "We must, however, go back to the deservists, who were the real instigators of the present revolution. They were a			
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1-6-18

In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners." — Seditious Utterances.

group of noblemen, 125 of them, who realized that czarism must go if Russia were to take her place among the democracies of the world.

"The forerunners of the revolution were related to the land reformers. They laid out a plot to take the government and remove the czar. Five of them were executed, and one hundred and twenty were exiled to Siberia. They were, however, discovered before they had time to perfect their plans. Some believed that nothing could be done, but no movement can be killed by sending a few men to Siberia.

"In the 50's a new movement sprung up, a secret movement. At that particular time it was not possible for the people to get new ideas. The Russians belonging to the highest Russian nobility organized a circle called the 'Circle of Stankavik.' Among its organizers was Palinsky, who used his pen to express the needs and hopes of the peasant class. This circle, also called the 'Stadirim Circle,' began among the students. They translated the works of John Stuart Mills and other writers. The czar tried to destroy it.

"Bakunin was the father of anarchism, and Alexander Herzl was a prominent worker. He was exiled from Russia and went to France, where he saw the socialists slaughtered. The banner of internationalism was then raised for the first time. Alexander Herzl started a paper. It was smuggled into all the universities, and the peasants who could not read had Herzl's papers explained to them. The works of Michael Bakunin swept across Western Europe and awakened the people to action as those of no other person ever did. Bakunin and Herzl were the founders of the revolution in Russia which we have the joy and

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pleasure to witness in our day.

"Tzerneshevicki's work told the Bolsheviki what was to be done. He did more than Marks did. Tzerneshevicki was fifty to seventy-five years ahead of his time. He drew the picture of what was to take the place of the Russian autocracy. They also made short work of Tzerneshevicki. He was first condemned to death; then his sentence was commuted to life imprisonment in the underground prisons in Siberia. He was released at the end of twenty-five years. His experiences can be best learned from his book of 'Prison Memoirs.' From his life it will be seen that the more the people are prosecuted the stronger will the spirit of rebellion become.

"Then there was a party that was led by Chikofsky, who, thirty-five years afterwards, came to the United States to plead for the Russian peasants. Kropotkin and others were the pupils of the circle known as 'Chikofsky.' They were sent out among the poor, not as our reformers go, to teach the poor not to eat with the knife; they were not as the reformers here are, who live with the poor a few hours and then go back to their luxurious homes in other parts of the city. These students were sent from the colleges and high schools to teach the spirit of revolution.

"This man who went out from the universities to teach the people was called 'The man with the white hands,' because he had never done a day's work in his life. He comes to the peasant and the peasant says, 'Your hands smell of iron.' He answers, 'I was chained in Siberia with iron.' 'Why did you go to prison,' they ask him. He answers, 'I did that for you, to help you.' And when in the next year those with the white hands

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In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners."

were executed, the peasants crowded around the place of execution and wanted to get a piece of the rope that they were hanged with, believing that it would bring good luck to have a piece. They were crucified, just as the Savior was crucified two thousand years ago. They organized the 'People's' party, later called the 'Social Revolutionary' party.

"It became necessary for the people to have more than intellectual help. The Marks party was born in 1867 in Russia. Until that time the soil had been prepared. There were social democrats and other radicals. They tried all methods, but were compelled by the secret police to use terrorist methods. The social democrats in Russia never gained strength. The Marks reasoning did not appeal to the Slav mind. I have not time to tell you why it did not impress itself on the minds of the Russian people."

Miss Goldman mentioned the name of Lenine, which was applauded. She said that the birth of the Bolsheviki took place in 1903. She remarked that they had learned to do away with human metaphysics, and they were giving the Russian people what their minds were capable of grasping.

She continued: "From the time that the czar was deposed the campaign of education among the Russian peasants has continued. The hundreds of thousands of men and women who went to their death in Russia helped to till the soil for the new life of the Russian people."

"The real proletariat of the Russian people was started in 1901. The campaign since 1895 was conducted in the factories and workshops and among the people in their homes. In that way it was possible to spread strikes, to teach the people that there existed not only a dangerous czar but a more dangerous class,

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REPORT FORM NO. 8

1-6-18

In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners."

the capitalist class. The time has come, they said, when the workmen must organize. The time has come, they said, to strike at the capitalists, and the only way to do this is by an economic organization. Just as 'the man with the white hands' was not understood, so the laboring people are not understood. They realized that the people must get rid of the czar, of all the Romanoffs. They said, 'What good will it do us to get rid of the czar alone; we must get rid of his partner, the capitalist class.' They did not realize that a revolution could not succeed unless the ideas were inculcated in the minds of the soldiers. French women urged and pleaded with the French soldiers not to kill their own blood. The soldiers answered them by saying, 'We came from the people, and we will go back to the people.'

She then told of the revolution from 1905 to 1907, when five thousand men and women were publicly executed in Russia. She mentioned that one man was called 'The man with the necktie;' he was the hangman.

"People in Germany and England," she continued, "discussed how the Russian horrors could be stopped. It was thought that the revolution was crushed, but the revolution between 1912 and 1914 was a seething furnace. Tax collectors were paying the price they made the people pay. Therefore, it was the scheme of the czar to join the Allies and thus side-track the revolution. War was declared, and the Russians went over to the Allies. It was only for a time. Some soldiers who were against the people in 1914 went over to the side of the people in 1917 and pushed the czar off the throne. Could people who suffered in anguish so long be satisfied with the overthrow of the czar alone? The voices of the martyrs told the Russian people to demand the land for the people and to demand for the people all that was produced by the people."

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-6-18

In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners."

She concluded amid loud applause. It was then 9:43 P.M. Miss Goldman then repeated several announcements. She said that originally the people did not think that there would be more than three meetings at which she would speak, but it seemed that the people would be interested to hold more meetings. She announced a meeting to be held at the Berg School, Hoyne and Division Sts., Chicago, Tuesday, January 8th, at 8 P. M., at which she is to speak on Maxim Gorki. She said that his writings were typical of the literature of the Bolsheviks and were very important. She announced that on Wednesday evening, January 9th, at 8 P. M. she would speak in Yiddish at the Northwest Auditorium on the Bolsheviks; that on Thursday, January 10th, 8 P. M., she would speak at the Northwestern Labor School, 2023 W. Division St., on Leonid Andreef. She announced various other meetings at which she would speak before she left the city.

After making these announcements she said: "Russia is not the only chosen spot in the world for revolution. There are many forerunners in America of the social revolution that is to come here, and you are yet to be saved."

She then told of a banquet which would be held at the Co-operative Restaurant in her honor. The chairman then announced that the "Workers' Institute" was open.

Questions were then asked by persons in the audience and answered by Miss Goldman. She said that the Russian revolution was doing a great deal; that it had awakened the Americans to ask questions and to think (she included the American Jews among others). She said that the literature of the Russians would have a lot to do with the revolution that is to come in America. She told of literature circulated in Russia, stating that they realized the written word was more effective than the

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The Emma Goldman Papers

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Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bamberger reports on Goldman's speech on the forerunners of the Russian Revolution, given in Chicago on January 6, 1918. He paraphrases and excerpts large portions of her speech and the question-and-answer session.

Notes: Brokeo type.

E. J. BAMBERGER

16-18

In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners."

spoken word. She said, "We can prepare the soil for the revolution that is to come in America." She spoke of Voltaireine DeCleyre as one of the great forerunners of the American revolution, stating that those who wanted to become acquainted with one who was a great forerunner of the Russian as well as the American revolution should read her book, "Selected Works."

She then told of Alexander Berkman, who, although not an American, was also a forerunner of the American revolution. She remarked, "I hope I have played some part in the revolution to come in America."

She told the audience that "Mother Earth" was one of the casualties in this war to make the world safe for democracy and spoke of a small bulletin which she was publishing which was being sent out by first-class mail. She announced an intermission during which the audience would be shown Voltaireine De Cleyre's book. At this point the afore-mentioned book was sold among the audience. It was then 10:15 P. M.

She was asked why there had been a counter-revolution in Russia. Her answer was, "Conservatism and the tenacity of reaction caused this. Reactionists cannot read signs on the wall. They do not know that the czar is gone forever."

She was asked what would happen if the Bolsheviks should go back on the people, to which she replied that she hoped the anarchists would overthrow the Bolsheviks if they should do this. She said she did not know that the Bolsheviks was the highest state possible but, as an anarchist, she was sustaining them.

She was asked, "Will Germany be affected by the Bolsheviks?" She replied, "If the German soldiers wake up, I should not like to be in Mr. Billy's shoes." She added that the revolution would affect all countries.

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E. J. Bamberger

1-8-16

In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners."

She was asked about the unrest in Finland, and she said that this was justified because the people of Finland desired independence; that the Russians demand independence for all who live in Russia.

"Tolstoi," she said "was one of the great forerunners of the Russian revolution. He said the land belongs to the people. Tolstoi did not believe in war and in the slaughter of the human race. Kropotkin held the view that France was the leader in revolution. He considered France the cradle of revolution.

"It is foolish to believe that you can get liberty by making war upon and wiping out Germany. I am opposed to this war because it is an imperialistic war. The people must get together and fight the war between the classes, the workers and the capitalists, not between the races. The anarchists insist that all governments are wrong and unnecessary and that people can get along without government with greater safety to themselves."

She then told of the youth of Russia who have sacrificed themselves in the work of the revolution. She said she hoped that the youth of Russia had set a splendid example for the youth of the United States and of all other countries. She told the audience that Kerensky was not big enough for the occasion, that a genius was required. She said he was led astray by the United States and the Allies; that the United States is responsible for his down-fall.

She was asked about the Root Commission, and she replied, "Read the Russian papers if you want to know what they did. They were enjoying themselves at the hotel most of the time. Root is an old man, and he thought it too brisk to go out."

She was asked, "Will Russia bring peace." She replied, "That will depend upon you. If they do not succeed in bringing

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In re: Lecture by Emma Goldman, "The Russian Revolution and its Forerunners."

peace, you know who will be to blame."

She then spoke about the Russian Greek church, and said that it knows on which side its bread is buttered.

She said, further, that each revolution grew out of the intellectual development of the people; that the people of each country must be educated.

She was asked the difference between an autocracy and a democracy. She replied, "One is an imaginary disease; the other is a real disease."

She was asked what the Russians think about the prosecution of herself and other anarchists in the United States, and she replied that she had recently learned that one thousand anarchists has assembled in Petrograd to protest the imprisonment of herself and other anarchists in the United States.

The meeting ended at 10:45 P. M.

I noticed Attorney Harold Melke present; also Mr. Cook and Wm. Mathanson. The audience was composed of Russian and Polish people and other foreigners.

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The Emma Goldman Papers

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REPORT FORM NO. 1

REPORT MADE BY: E. J. BAMBERGER PLACE WHERE MADE: CHICAGO, ILL. DATE WHEN MADE: JAN. 11, 1918 PERIOD FOR WHICH MADE: JAN. 8, 1918

TITLE OF CASE AND OFFENSE CHARGED OR NAME OF MATTER UNDER INVESTIGATION: In re: Emma Goldman's Lecture on "Maxim Gorki"
Seditious Utterances.

FEB 11 10 11 AM - 242
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YVAM DEPARTMENT

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:
AT CHICAGO:

Following is report of E. J. Bamberger, A. P. L. operative No. 1576, covering meeting of January 8, 1918, held at the Berg School, Hoyne Ave. and Division St., at which Emma Goldman spoke on "Maxim Gorki," the admission charge being 25¢, an additional charge of 3¢ war tax being made.

This meeting was very well attended. The hall proved to be too small, crowds outside clamoring to be admitted and disturbing the meeting with their noise. The normal seating capacity of the hall was about two hundred, but about two hundred and fifty were crowded into it. The audience was composed almost entirely of Russian and Polish Jews.

Mr. Cook, of the League of Humanity, acted as chairman. Previous to the meeting a book entitled "Anarchist Morality," by Peter Kropotkin, was sold. The "Chicago Socialist" of January 5, 1918, was distributed free of charge. The "Defense News Bulletin" of January 5, 1918, was also distributed free of charge. The bulletin which the usher announced takes the place of "Mother Earth," which has been suppressed by the United States government, was sold for 5¢; also "A talk between two workers," at 5¢, and "Anarchism, what it really stands for," 10¢. The "Social War" paper, "Philosophy of Atheism," and the "Failure of Christianity," were also sold. "Anarchy on Trial," by Emma Goldman, was sold for 25¢. A young man wearing tortoise shell glasses, a soft collar, and a gray suit, who spoke with a slight foreign accent, did most of the selling. He announced in offering the books for sale, "You also can become acquainted with the

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REPORT FORM NO. 2

E. J. BAMBERGER

In re: Emma Goldman's Lecture, "Maxim Gorki"
Seditious Utterances.

1-8-18

justice you get in our courts." "God and the State" was sold for 25¢. He announced that God and the state are two great superstitions. A dark haired woman, wearing a big red tie, also sold literature.

At 8:10 P. M. Mr. Cook, the chairman, said: "Time is the essence of existence. The printed word is as important as the spoken word; in fact, it is more important. The first thing we will offer is the "Speeches of Emma Goldman and Alexander Berkman," both of whom, as you have read in the newspapers, will probably spend two years in prison. He will sell these books at 25¢. This book contains the trial and speeches of Emma Goldman and Alexander Berkman before the Federal grand jury." The ushers proceeded to sell the books.

Mr. Cook then said that at one time he read a book that made him think he was in jail, that in reading it he went through all the emotions of being in jail. That book was "Prison Memoirs," by Alexander Berkman. He said they had brought a quantity of these books in a trunk, so did not have to pay any freight or express charges, and could sell them at a very reasonable price. Only four or five were left, and these were autographed by Alexander Berkman. They were sold by the ushers at \$1.00 each.

A heavy-set man, wearing a full beard and mustache, announced, "To-morrow night, at the Douglas Park auditorium, I will speak on the European war from the racial point of view. I shall talk on the other races - the yellow and the black - as well as the Caucasian."

Mr. Cook then said: "I have been very much impressed with the fact that the people who go to church contribute generously to the upkeep of the church. Even the hired girl sometimes

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gives as much as \$20.00 a year. The radicals are not making progress because the radicals are not educated up to radicalism, and its teachers are the poorest paid. Only the literature of Emma Goldman has survived. You cannot condemn anarchism until you read these works." He then spoke of "Anarchism and other essays," by Emma Goldman, saying, "Read her book; it is worth the price." It was sold by the ushers at 50¢. He then announced that all the essays were gone, but there were some pamphlets left, "Anarchy, What it really stands for," Anarchy and Other Essays," price 10¢. At this point (8:30 P.M.) Mr. Cook told of the difficulty he had had in finding the hall and said that Miss Goldman might also have trouble in locating it and might, therefore, be late getting there.

Mr. Cook said that a belief was a confession of ignorance. He told of a congress of religions held in the Civic Auditorium in San Francisco, Cal., at which Miss Goldman was denied the use of the hall. There was also a congress of Rationalists. Mr. Cook said he was a delegate at this congress. He said that Miss Goldman was the first person selected to speak, her subject being "The Philosophy of Atheism;" and they were compelled to allow her the use of the platform, although at times she was not granted that permission. He said she spoke for twenty-nine minutes, and there was great applause when she finished. The lecture was afterwards published.

"The Philosophy of Atheism" and "Failure of Christianity" were then sold among the audience, at 10¢ a copy. The "Social War" was again sold. Mr. Cook said that the "Social War" was a magazine published by the International Propaganda Group, and that it contained some remarkable statements. He read a quotation from it, by Frederick the Great, to the effect that

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E. J. BAMBERGER

In re: Emma Goldman's Lecture, "Maxim Gorki" 1-8-18
Seditious Utterances.

if the soldiers knew what they were doing not one of them would remain in the ranks. "Social War" was then sold among the audience.

Mr. Cook further remarked, "If you were to ask yourself who are the seven greatest anarchists in the world, could you answer? One of these men was Peter Kropotkin. He was a prince, and laid aside his nobility to work among the poor. He wrote the book, "Fields, Factories and Work-shops." It is a book you can keep in your library and refer to. It is a text book on the land question." The book was sold among the audience at 25¢ a copy.

He then said, "It is getting late, but Miss Goldman left the hotel at 7:45 P. M. She has been dictating letters all day long to a stenographer, and has been busy signing them. Miss Goldman publishes a magazine of her own. For twelve years she published "Mother Earth." Last year the government put it out of existence. We have a couple of dozen still for sale. Miss Goldman will be the guest of the United States for the next two years. The bulletin can be had by mail for 10¢ and here for 5¢ a copy.

At 8:47 P. M. a paper to be signed by those who desired to help finance the I. W. W. prisoners in their coming trial was circulated among the audience.

Mr. Cook stated that the meeting was under the auspices of the Non-Partisan Radical League; that Miss Goldman would give considerable time to questions; that the following evening she would speak in Yiddish, at the West Side Auditorium, on the Bolsheviki; that on Thursday evening, January 10th, she would speak on Leonid Andreef, at the Northwestern Labor School, 2023 W. Division St. He also announced Friday, Saturday, and

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In re: Emma Goldman's Lecture, "Maxim Gorki"
Seditious Utterances.

1-8-18

Sunday meetings at which Miss Goldman would speak. The lecture Sunday, at 3 P. M., at the West Side Auditorium, is to be on the subject, "The Spiritual Awakening of Russia." He announced a mask ball to be given by the Workers' Institute.

Miss Goldman arrived, and Mr. Cook announced, "We have with us a speaker who is sentenced to spend two years in Jefferson, and we will have but few chances to hear her before she does. I now take the pleasure of introducing Miss Goldman."

Miss Goldman took the platform at 8:50 P. M., making the following speech:

"I have been coming to Chicago for a great many years - a great many more years than some of you are old, but I have never seen such crowds attend my meetings as are now attending them. The committees in charge have shown poor judgment in selecting small halls, for they do not nearly hold all that want to come in to hear me.

"The subject to-night is Maxim Gorki. He is always interesting to those who have studied Russian literature, and should be interesting to all who are following the Russian revolution. He is one of the great spokesman of the Bolsheviks. His life is that of a typical revolutionist. He came from the lowest surroundings and ascended to the highest. Although he came from the lowest surroundings and tasted the human cup of suffering, was unaided by conventional education and had no regard for morals, he has risen high, on his own merits. This shows what he could do in overcoming difficulties. Such a life must either break or make a man. Many who had not the power or resistance that he had would go down. It is very fortunate that he was made of indestructible material.

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REPORT FORM NO. 2 E. J. BAMBERGER

In re: Emma Goldman's Lecture, "Maxim Gorki"
Seditious Utterances.

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"To understand what Gorki's life must have been we must read of his childhood. When he was seven years of age he was put to work on Saturdays for the Jews, who would not light their fires on that day and hired Gentiles to light them. He supported himself in this way. In his home there were more blows than embraces. However, these experiences have crowned him with success.

"At the age of nine he ran away from home, which was for him just a place to sleep and to get an occasional meal. His real name is not Gorki, but Peshkoff. He adopted the name Gorki, which in the Russian language means bitterness. At this age he went to work on the ship Vulga. It is a wonder he survived.

"At about fourteen years of age he quit this kind of life. He met students, who introduced him to the great classics of Russia. Those who have made a study of Gorki will see that those who wrote of the underworld, of the poor, had a greater effect on Gorki than did Tolstoi and others of his kind.

"Gorki gave us a confession of faith in a love story he wrote of one who lived and worked among the poor peasants. He talked and fell in love with a peasant girl and married her. After a while he left her, to talk and speak again among the peasants. This is a picture of life in Russia. He did not write of the men of the universities. He had a common love for those who stood in between. While Gorki loved the classics, they never made so great an impression on him as the Sespinki writers.

"Then Gorki was quite a young man a writer and critic, Moremenka, introduced him to the larger literary life. He was accepted in all circles.

"It is necessary to go into the social and economic conditions of the time to understand Gorki. He came at a very

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1-8-18

psychological moment. They were tired of Tolstoi's "resist not evil." They thought these writers were paralyzing Russia. Therefore, Gorki became the inspiration for the youth of Russia. Gorki came before Russia from the type of men who spring from the lowest strata. They accepted the change of society. They created a class of their own, what we call in America the hobo class, who demand travel and constant change of scenery, those who do not like the sedentary life.

"We have writers in America, such as Jack London and Jeremiah Flint, who traveled among the poor people, but they never were compelled to take up this life and did so just to get material to write about such a life. Jack London did not really belong to the hobo class. He never had only the starry heaven above him when he slept as did Gorki. Gorki was part of that life." She spoke of Jack London's "The Abyss." She said that Jeremiah Flint always had enough money in his pockets to change his linen when he wanted to, to put on better clothes, and to get comfortable lodgings.

"Gorki's works," she continued, "are life itself. They could only be written by one who has great creative ability. They tell of people who have been cast out of society; those who would not have taken to the road except that it was necessary. They had to rebel. The revolutionary spirit was in them. Such people play a great part in the social conditions. The types Gorki portrayed were difficult ones, but were met with understanding. To him poverty was not due to man's weakness, but to certain economic and social conditions. He said his mission was to light the way for a better day, when the poor shall have vanished and we shall have a better world. Gorki always understood the conditions that he sought to change. He always strove to a higher and better social condition. Rarely do the masses

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1-8-18

meet such personalities.

"In his life there was a social demarcation. He became dissatisfied with the writers, who, he said, were going away from the people. He believed that the artists went for their inspiration to the people. He proves that colleges, universities and all conventionalities are not necessary if man has strength in himself. There are individuals who would bring aid to the masses, and there are times when the masses do not appreciate the aid that the teachers and saviors bring and the people turn on them and hurt them with their ingratitude. The book 'Foma and Godiv' teaches that there is a gulf between the people. He said, 'Ours is an age of weakness. We have not the strength to commit big wrongs; we commit small, petty wrongs. This age symbolizes the idea of getting three meals a day, of begetting diseased children, not making efforts to improve conditions.' Gorki portrayed the idea of living a strong life, a life full of effort, with deep intensities."

She then spoke of the history of Stenkarism, the first great Russian revolutionist, stating that when you read this you realize that there is hope. She said that in another book, "Alofs," he writes of how all branches of society are aiding those who are diseased, that society is organized nowadays to help the crippled, the diseased, rather than the healthy; that the type that should survive, the geniuses who are forced to live in poverty, are stunted and kept from developing. She said that the Y. M. C. A., the Salvation Army, etc., are all organized to aid the crippled and diseased.

"He wrote Nadwa," she continued, "which represents that even in the most putrid atmosphere an individual can sur-

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vive and retain his honesty and his purity amid the struggles of poverty."

She spoke of Vaska, who was continually called a thief, so that in time he became one. Vaska shows that in such squalid circumstances a soul cannot survive.

"Gorki thought that labor was the redeeming feature in life; that labor is going to play a new part in society. Gorki tried to make us understand that labor is the great thing in life, that all else is secondary to labor. That is the great lesson in Nadwa. You cannot discuss the man Gorki without considering his works.

"For a time after the revolution in 1915 he was in exile, and he deteriorated. Gorki and a singer went out on the streets and collected money for the revolution in Russia. In America shall we ever live to see a singer and a poet who will collect money in the streets of America so that America will be redeemed?"

She told of "Tales between Two Countries," a story of the Italian workers, who did not believe that they could tunnel through a certain mountain. There was fear in the Italians. When the tunnel was finished the people said, "It is not God that rules the earth. If man can do this there must be a solidarity among men."

"If people believed this, they would go to work, not as they do to-day, cringing. Gorki could not be anywhere else but with the Bolsheviki. The Bolsheviki represent a movement that has gathered together the tramps, the 'Lampenbund,' all the workers, the skilled as well as the unskilled. They are united by a great revolutionary spirit. He is one of the leaders of the Bolsheviki movement. They are not on their knees, but

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Seditious Utterances.

1-8-18

with their heads erect, conscious of the right of the revolutionary movement."

She concluded at 9:58 P. M. Mr. Cook then said that those who were not anxious to remain for the questions might go.

Miss Goldman was first asked, "Why did not America let Gorki in?" She answered, "They let him in, but they kicked him out."

Miss Goldman then said, "I will remain out of prison a little while longer, the supreme court and God willing. The supreme court has decided one-half of the appeal; leave it to the supreme court to decide the other half.

"I am glad to be in Chicago during the last few days of freedom. I will speak tomorrow evening in Yiddish, at the West Side Auditorium, on the Bolshheviki. Thursday evening I will speak at the Northwestern Labor School on Leonid Andreef. I did not know there were so many schools in Chicago which would permit me to speak. In New York there is but one such school, the Farrar. On Friday evening I will speak at the Douglas Park Auditorium on "America and the Russian Revolution." I will draw a parallel between the forerunners of the Russian revolution and the revolution which I hope will come some day in America (this was loudly applauded). I will talk on "The Women Martyrs of Russia" Saturday evening, January 12th, at 8 P. M., at the East End Hall, and on "The Spiritual and Intellectual Development of Russia" Saturday afternoon at 3 P. M. at the West Side Auditorium. A banquet is to be given in my honor Friday evening at the Co-operative Restaurant. There will be some entertainment in addition. "

She then called attention to the literature for sale.

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[Agent Report] In re: Emma Goldman's Lecture on "Maxim Gorki" - Seditious Utterances, Chicago, 1918 Jan. 11 / E.J. Bamberger [Operative, American Protective League]. - 12 p. ; 31 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Bamberger describes Goldman's speech on Maxim Gorki, given in Chicago on January 8, 1918. He lists the literature for sale, paraphrases the lecture, and describes the question-and-answer session.

REPORT FORM NO. 2

E. J. BAMBERGER

In re: Emma Goldman's Lecture, "Maxim Gorki" 1-8-18
Seditious Utterances.

She remarked that when she is in prison all her friends will continue to fight outside and she will write letters weekly to the editor of the Bulletin to help along the cause.

Miss Goldman was asked, "Why are not Gorki's plays given on the American stage." She answered, "Because plays are not produced in America to shed light, but to amuse; to rest the nerves of the tired business man; and to enable the wife of the business man to display her clothes before the wife of the other business men. The theatre is a place of show. All sorts of displays of the human body are shown, but there is nothing back of it."

Someone asked if Gorki was not against the Bolsheviki, and she replied that she was receiving a Russian paper published by Gorki, "The New Life;" that it was started since the revolution and showed he was with the Bolsheviki. She remarked that what the American papers did not know about the Russian revolution would fill books.

"Gorki," she said, "was born in 1869. However, we have no choice in coming into life, so it does not make any difference when he was born. We have only a part in remoulding life. The war has put out of existence the mechanism of life."

As to Tolstoi, she stated she believed he would have been with the Bolsheviki unless, like his son, he would have betrayed the radicals; that Tolstoi was not in favor of taking life, and did not believe in war and in shouldering a gun, as his writings show.

"America," she said, "has demonstrated that it is what G. B. Shaw called it, a provincial country."

She said that Gorki did not understand the conditions here; that all this talk about freedom in America is untrue.

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman's Lecture on "Maxim Gorki" — Seditious Utterances, Chicago, 1918 Jan. 11 / E.J. Bamberger [Operative, American Protective League]. — 12 p. ; 31 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Bamberger describes Goldman's speech on Maxim Gorki, given in Chicago on January 8, 1918. He lists the literature for sale, paraphrases the lecture, and describes the question-and-answer session.

E. J. BAMBERGER
REPORT FORM NO. 2

In re: Emma Goldman's Lecture, "Maxim Gorki"
Seditious Utterances.

1-8-18

"Gorki," she concluded, "looked upon literature as a living bell which would make the dead and the living dead shiver - for there are people living that are dead. Would that this might come to pass in America."

The meeting adjourned at 10:50 P. M.

PAGE 13

• 7-571

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The Emma Goldman Papers

[Letter] 1918 Jan. 12, Washington, D.C. [to] Thomas Watt Gregory, Attorney General [Department of Justice], Washington, D.C. / George Creel, Chairman, Committee on Public Information. — 1 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Creel assures Gregory that he will not reply to Harry Weinberger's letter.

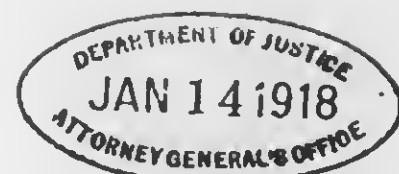
Notes: Reply to 870810031. For Weinberger letter mentioned, see 810113162.

C O P Y
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

GEORGE CREEL, CHAIRMAN
THE SECRETARY OF STATE
THE SECRETARY OF WAR
THE SECRETARY OF THE NAVY

COMMITTEE ON PUBLIC INFORMATION
WASHINGTON, D. C.



January 12, 1918.

Honorable Thomas Watt Gregory,
Attorney General,
Washington, D.C.

My dear Mr. Gregory:

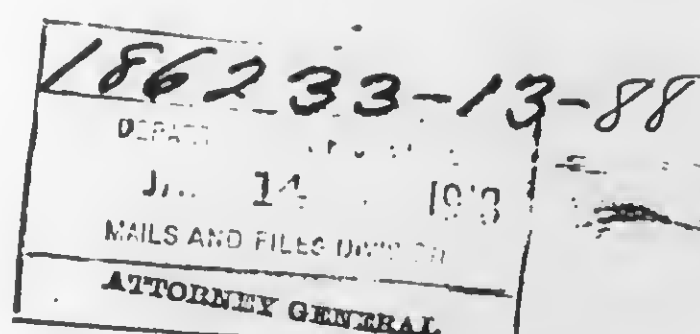
It is not my intention to answer Mr. Wineberger either now or at any other time. All that I wanted was the exact knowledge of your attitude so that I might govern myself in accordance with it. You may be sure that I shall never take any position in these matters without first obtaining your viewpoint.

Respectfully,

Chairman.

Handwritten initials: JWB

JAN 14 1918



The Emma Goldman Papers

[Memorandum] 1918 Jan. 12, New York [to] W.L. Campbell [Military Intelligence Division, War Department, New York] / [John H.] Brady [Inspector, Military Intelligence Division, War Department].— 2 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Brady describes how he recruited Lilly Winner's landlady to gather information about the Guillotine Club.

Notes: For related reports, see 810402043, 810402046, and 810402048.

E.G. 15

New York, January 12th, 1918.

FROM: Inspector Brady.

TO: Lieutenant W. L. Campbell.

SUBJECT: Emma Goldman, Lilly Winner &c.

Interviewed Marshall McCarthy who informed me that he was requested by a friend to give Miss Alice Gutkind a reference to the Air Vitrate Company. He informed me that he wrote a letter stating that there was no female enemy aliens and that there was no law against their employment in any position by the United States.

I called on Pfister & Vogel Leather Company and looked over Miss Gutkind's record there. Found that she was born August 8, 1888, single, German, taking out first papers some years ago. Her father is retired German banker. She speaks English, German, French, Rumanian and Italian. Took examination at laboratory of Paris University, Grenoble. Started to study Spanish. She answered an advertisement September 24th, 1916, by the above company and was appointed September 27th, 1916. She then lived at 322 West End Avenue. Her references are Dr. H. R. Muller, 150 West 80th Street; Fred Stern of Stern & Company, 44 Whitehall Street and Mr. Lionel Sutro, director of Morris Plan Company, home address, Green Gables, Portchester, New York. Worked with the Hills Clinic, 216 East 67th Street; statistician for three years; Miss E. Willcox, reference. I interviewed Mr. Fred Michels of Pfister & Vogel Leather Company with reference to subject (Miss Gutkind) and he informed me that he has worked with her for over a year and he always found her pro-American and says that she has no socialistic tendencies whatever. He recommended her very highly. I then called on Mr. Sutro, who is a very well known man in New York City. He informed me that he belongs to quite a number of patriotic societies and is on quite a number of war committees. Says that he has known Miss Gutkind for over three years and would almost swear to her loyalty to the U. S. Praises her very highly. Says that she visits him and his wife very frequently. I then called upon Miss Gutkind at the Air Vitrate Company. She informed me that some time ago she was recommended to the Rand School and since then she has been getting some of their literature; she says that must be the socialistic literature in her room. She absolutely denies that she is a socialist and says that she has been renting her rooms out for sometime; she says that when a roomer leaves she advertises and that is how Miss Lilly Winner came to be in her home. She informed me that Miss Winner is dissatisfied on account of the house being cold and has threatened to move out within a week. After sizing up this lady I considered that she is safe and I prevailed upon her to try and hold Miss Winner as long as she could even if she had to lower her rent and promise her a gas stove. Says that she did not know Miss Winner was anarchistically inclined; that she knew she was a socialist but simply thought that she was writing a column in the Guillotine. She will now watch her very closely and

The Emma Goldman Papers

[Memorandum] 1918 Jan. 12, New York [to] W.L. Campbell [Military Intelligence Division, War Department, New York] / [John H.] Brady [Inspector, Military Intelligence Division, War Department].— 2 p. ; 28 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Brady describes how he recruited Lilly Winner's landlady to gather information about the Guillotine Club.

Notes: For related reports, see 810402043, 810402046, and 810402048.

-2-

try to join the Guillotine socialist party, or I.W.W. party
or the Anarchist Party if she can.

Respectfully submitted,

33

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The Emma Goldman Papers

[Memorandum] 1918 Jan. 13, New York [to] W.L. Campbell [Military Intelligence Division, War Department, New York] / J[ohn] H. Brady, Inspector [Military Intelligence Division, War Department]. — 1 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Brady describes his efforts to set up surveillance of Lilly Winner's apartment.

Notes: For related reports, see 810402043, 810402046, and 810402047.

Rec. 3

10110-524
New York, January 13, 1918.
25

FROM: Inspector J. H. Brady.
TO: Lieutenant W. L. Campbell,
SUBJECT: Emma Goldman - Winner - Weitzenkorn case.

I had a conference with Lionel Sutro and Miss. Goodkind at the Sutro home, #600 West End Avenue, today. Mr. Sutro, who is Miss. Goodkind's advisor told her to follow my instructions to the letter.

She says, as I had heard before I met her, that Miss. Winner has her rent paid until January 17th, and that she has threatened to move on January 15th, but as they have promised to put in a gas stove, she may stay.

I requested Miss. Goodkind to let Mr. Weitzenkorn have the room that a Mr. Ralph Stout an attorney at 217 Broadway, has. Mr. Stout lectures in a law school three times a week in the city, and he then uses this room. His residence is in Jersey. He does not know anything of the Goldman crowd.

Miss. Winner started out this A M to pack up the things in #23 Christopher Street, as they are going to move from there.

Lieutenant Campbell has notified the Naval Intelligence as they have this house covered, so their investigator informed us some time ago.

Respectfully submitted,

315

The Emma Goldman Papers

810402050

[Memorandum] 1918 Jan. 14 [Washington, D.C. to A. Evans?] Intelligence Officer [Military Intelligence Division] Western Department [War Department, San Francisco?] / R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department]. - 2 p.; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Van Deman lists Los Angeles anarchists including Harry Cummings, a cousin of Goldman, and Isadora Duncan, a close personal friend of Goldman.

Notes: For original reports, see 810402011 through 810402016, 850205098, 850205099, 810402032, 810402033, and 810402039.

10-564-M.I.4.

January 14, 1918.

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION

2-1 JAN 18 10 110-564 1918
9
WAR DEPARTMENT

From: Chief, Military Intelligence Section.
To: Intelligence Officer, Western Department.
Subject: Los Angeles Anarchists.

1. For your information, I am informed that the following people in Los Angeles may be classed as members of the Radical Movement:

Mise Eileen Maxwell, who is employed as a reporter on the newspaper, is now working for a labor publication there; Gene D'verts, an artist; one Taylor, first name and occupation unknown; Harry Cummings, a cousin of Emma Goldman; Gertrude Barrett, employed at Laaky's Moving Picture Studio, probably being used to distribute suppressed radical literature; Claire Melaine, Music Studio in the De Baker Block; George Edwards, musical composer and song writer, lives in San Diego; James W. Townsend, Attorney, 52347 Ocean View Avenue, Los Angeles, is believed to be friendly to anarchists, and it is thought that Bon Reitman stole with him whenever in Los Angeles; Julius Hess, newspaper reporter, who was said to be in hiding in Los Angeles, is now believed to be in San Diego; Billie Bell, a woman, is living with Howard Sheffley who is one of the most active members of the I.W.W. and a real sabotage worker and is now in hiding at Los Angeles; Mollie Cook, reported as living in San Diego. Have you any record of the last mentioned person's arrest. It is claimed that considerable correspondence was secured at this time which will implicate her and her associates. Murray Schloss, president or chairman of the Hill Top Club, an anarchist organization, which has been meeting until recently at Gertrude Barrett's in the neighborhood of Fourth and Grand Avenue, is believed to be now in hiding. Pauline Katz, a hospital nurse in Los Angeles; Isadora Duncan, a radical and a close personal friend of Emma Goldman. While in Los Angeles recently many Reds were in attendance at a theatre party, and when Mise Duncan portrayed the Spirit of the Marseillaise, it was explained that this air has been adopted by the radicals all over the world as their patriotic anthem, born in the French Revolution and sung at all their secret meetings. Incidentally, it is noted that Isadora Duncan when dancing the Marseillaise wears a red costume, and the radicals claim her reason for this being that this color is the adopted emblem of the Anarchist Society. This was her last number on the program and instead of responding to the encore with a little dance number, as is her custom, she came before the curtain dressed in this red costume and said she was glad that the audience had caught the spirit of the Marseillaise, that it would have an awakening power and would bring all nations together, and the time would come when we all would stand hand in hand. The Anarchists interpreted these remarks to mean the revolutionary spirit of the Marseillaise, and thought she was very daring to say what she did.

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The Emma Goldman Papers

810402050

[Memorandum] 1918 Jan. 14 [Washington, D.C. to A. ? Evans?] Intelligence Officer
[Military Intelligence Division] Western Department [War Department, San Francisco?]
/ R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department].—
2 p.; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Van Deman lists Los Angeles anarchists including Harry Cummings, a cousin of Goldman, and Isadora Duncan, a close personal friend of Goldman.

Notes: For original reports, see 810402011 through 810402016, 850205098, 850205099, 810402032, 810402033, and 810402039.

WCD
G G

- 2 -

Miss Dunoan announced that she was coming to Los Angeles to locate with her dancing girls. Mrs. Perry McCullough, 4025 Winter Street, has concealed much incriminating literature which she formerly had in her home.

2. In this connection, indications are that San Diego is being made the assembling point of many of the anarchists at the present time, probably with the idea of getting across the line into Mexico, if possible and if necessary.

3. A bit of information that is interesting in connection with their activities is to the effect that the radicals, including the I.W.W., have decided to quit the use of bombs or anything requiring the use of a fuse to make it effective, that almost all of the bombs they have tried in recent times have gone astray and did not accomplish the object they were aimed at; for instance, the Los Angeles Times Explosion, the failure at Gen. Otis' residence, and the San Francisco Preparedness Day Parade affair. Instead, they are now using a mixture of phosphorous for the purpose of setting fire to the object to be destroyed - mysterious fires all over the country, wheat fields, farms, etc. - This mixture of phosphorous is carried in a wet state and it is harmless as long as it is wet, but when they want to set a fire they take whatever amount is necessary and place it where it will be most effective as soon as the water in it evaporates, it will take fire and ignite anything inflammable near it. This time element, several hours being necessary for the phosphorous to ignite, the sabotage worker can be clear out of the country and free from suspicion.

4. Naturally, you can realize that this information comes to you in very careful sequence and is not sent you to be used in any immediate fashion, except where your acquaintance with these facts and individuals might dovetail into important results, and must all be handled most confidentially, otherwise the source of information will be destroyed.

R. H. VAN DEMAN.

Colonel, General Staff.

By HERBERT PARSONS

Major, U. S. R.

Mailed, W. C. P. G. S., JAN 14 1918

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The Emma Goldman Papers

810402049

[Memorandum] 1918 Jan. 14 [Washington, D.C. to A.? Evans?] Intelligence Officer
[Military Intelligence Division] Western Department [War Department, San Francisco?]
/ R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department].—
1 p.; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Van Deman warns the intelligence officer of the Western Department that Goldman is expected for an important meeting in San Francisco or Los Angeles soon.

10110-555-W.I.4.

2-1
JAN 16 1918
10110-555
13
WAR DEPARTMENT

January 14, 1918.

CONFIDENTIAL.

From: Chief, Military Intelligence Section.
To: Intelligence Officer, Western Department.
Subject: Emma Goldman.

1. I am in receipt of information that Emma Goldman is still out on bail and may appear in Los Angeles or San Francisco very shortly for the purpose of an important meeting of radicals at either of these points. I understand that the anarchists on the Pacific Coast have received word from New York to address all of Emma Goldman's mail to Stella Cornyn, #226 Lafayette Street, New York City; therefore, she may appear under that name in your department.

R. H. VAN DEMAN.

Colonel, General Staff.

By HENRY PARSONS

Major, U. S. A.

hcm

Filed, W. C. D., G. S. JAN 15 1918

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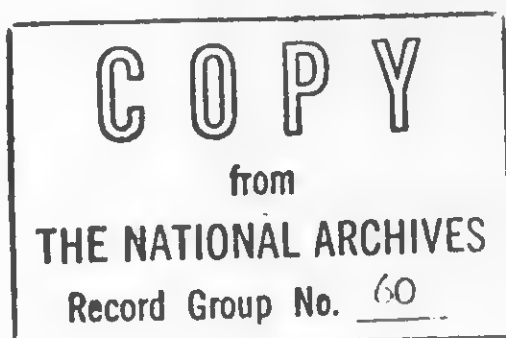
The Emma Goldman Papers

[Memorandum on Goldman Trial] 1918 Jan. 14, Washington, D.C. / C[harles] M. Storey, Department of Justice. — 1 p. ; 36 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Mr. Crane at the State Department requests information to send to the American ambassador in Russia.

Notes: For enclosure, see 810113167.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE,
WASHINGTON, D. C.

CMS-JCG

January 14, 1918.

MEMORANDUM FOR THE FILES.

The attached letters are sent at the request of Mr. Crane of the State Department, who desires information requested for transmission to the American Ambassador in Russia.

Respectfully,

The Emma Goldman Papers

[Letter] 1918 Jan. 14 [Washington, D.C. to] Francis G. Caffey, United States Attorney [Department of Justice], New York / John Lord O'Brian, Special Assistant to the Attorney General [Department of Justice]. — 1 p. ; 34 x 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: O'Brian asks Caffey to summarize the facts of the government's case against Goldman and Berkman.

Notes: Enclosed with 810113323. For reply, see 810113168.

C O P Y
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

OMS-JOC

186233-13-

January 14, 1918.

Francis G. Caffey, Esq.,
United States Attorney,
New York, N. Y.

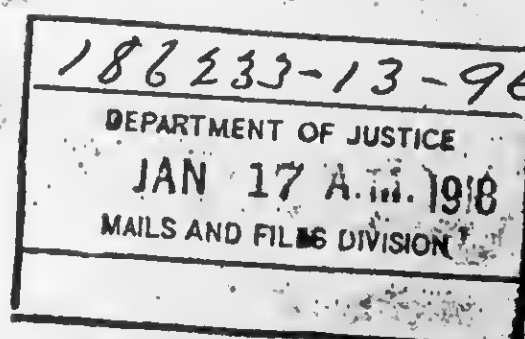
Sir:-

At the request of the State Department the Department instructs you to transmit to it a short, concise statement in form suitable for transmission by cable of the salient facts proved by the Government against Emma Goldman and Alexander Berkman. It is not important that this should be exhaustive and it is suggested that it can be readily prepared by the assistant who presented the case.

Respectfully,

For the Attorney General,

(Signed) John Lord O'Brian
Special Assistant to the Attorney General.



BEST COPY AVAILABLE

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The Emma Goldman Papers

[Telegram] 1918 Jan. 14, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk [United States Supreme Court]. — 1 p. ; 18 × 22 cm.
Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.
Summary: Maher notifies Weinberger that the Supreme Court decided Goldman's appeal against her.
Notes: Broken type; light copy. Reply to 810206025.

Form 1201

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nite
Night Letter	N L
If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.	

WESTERN UNION
TELEGRAM

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nite
Night Letter	N L
If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.	

RECEIVED AT

300 BROADWAY N.Y.
JAN 14 1918

F168W CDC 13 COLLECT 1 EXTRA

CS WASHINGTON DC 217PM JAN 14 1918

HARRY WEINBERGER

261 BROADWAY NEWYORK

GOLDMAN AND BEPKMAN AGAINST UNITED STATES AFFIRMED WILL SEND OPINION
WHEN PRINTED

JAMES D MAHER CLERK

250P

321

The Emma Goldman Papers

[Telegram] 1918 Jan. 14 [Washington, D.C. to] Harry Weinberger, New York / James D. Maher, Clerk [United States Supreme Court]. — 1 p. ; 11 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Light copy. Same text as 850712485, but in different format.

January 14, 1918.

Harry Weinberger.

261 Broadway.

New York City.

Goldman and Berkman against United States affirmed.

Will send opinion when printed.

JAMES D. MAHER, Clerk.

The Emma Goldman Papers

850712484

[Telegram] 1918 Jan. 14 [New York to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 15 × 22 cm.
 Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.
 Summary: Weinberger wires Maher to send a copy of the Supreme Court's opinion in Goldman's appeal so he can prepare a motion for reargument.
 Notes: Broken type; light copy. For reply, see 850712487. For same telegram in different format, see 810206034.

Form 1213

CLASS OF SERVICE DESIRED	
Fast Day Message	
Day Letter	
Night Message	
Night Letter	

Patrons should mark an X opposite to the class of service desired; OTHERWISE THE TELEGRAM WILL BE TRANSMITTED AS A FAST DAY MESSAGE.

WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT.

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

Receiver's No.
Check
Time Filed

Send the following telegram, subject to the terms on back hereof, which are hereby agreed to

Rush

January 14th, 1918

191

To James D. Maher,

Street and No. Clerk, U.S. Supreme Court, Washington, D.C.

Place _____

Desire immediately typewritten opinion Goldman-Berlman

against United States for purposes of motion for reargument.

HARRY WEINBERGER.

SENDER'S ADDRESS
FOR ANSWER


SENDER'S TELE-
PHONE NUMBER

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Telegram] 191[8] Jan. 14, New York [to] Ja[me]s D. Maher, Cl[er]k, U[nited] S[tates] Supreme Court, Wash[ingto]n, D.C. / Harry Weinberger. — 1 p. ; 14 × 17 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 267.
 Notes: Same text as 850712484, but in different format. Date should read 1918.

CLASS OF SERVICE	SYMBOL	WESTERN UNION TELEGRAM
Day Message		 NEWCOMB CARLTON, PRESIDENT GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT
Day Letter	DL	
Night Message	NM	
Night Letter	NL	

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

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FY NEWYORK NY JAN 14 1917 4P

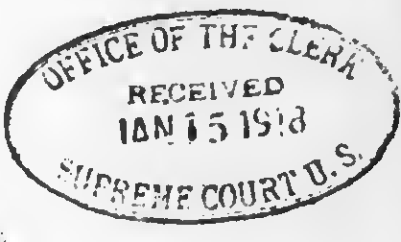

JAS D MAHER

CLK US SUPREME COURT WASH DC

**DESIRE IMMEDIATELY TYPEDWRITTEN OPINION OLDMAN BERKMAN AGAINST UNITED-
 STATES FOR PURPOSES OF MOTIONS FOR REAR GUMENTS**

HARRY WEINBERGER

4469

OK

W. B. Bury

The Emma Goldman Papers

Goldman [&] Berkman v. United States: [Slip Opinion] 1918 Jan. 14 / Supreme Court of the United States. — 3 p. ; 21 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court upholds the constitutionality of the Selective Draft Act in its opinion in Goldman's appeal.

Notes: For decision printed in *United States Reports*, see 880329034.

SUPREME COURT OF THE UNITED STATES.

No. 702.—OCTOBER TERM, 1917.

<p>Emma Goldman and Alexander Berkman, Plaintiffs in Error, vs. The United States.</p>	<p>In Error to the District Court of the United States for the Southern District of New York.</p>
--	---

[January 14, 1918.]

Mr. Chief Justice WHITE delivered the opinion of the Court.

Because of the constitutional questions involved the plaintiffs in error prosecute this direct writ of error to reverse a criminal conviction and resulting sentence imposed upon them. The indictment upon which the conviction was had charged them with having, in violation of Sections 37 and 332 of the Criminal Code, unlawfully conspired together and with others unknown to induce persons who by the Selective Draft Law of May 18, 1917, (Public No. 12, 65th Congress, c. —, — Stat. —) were under the duty to register, to disobey the law by failing to register. Five specified overt acts were in the indictment charged to have been committed in furtherance of the alleged illegal conspiracy.

Seven grounds of error were assigned at the time of the allowance of the writ. 1. The refusal of the court at the request of the defendants to dismiss the indictment on the ground that the formation of a conspiracy to induce persons not to register as they were required under the law to do and the performance of overt acts to carry out the conspiracy constituted no offense. 2. The action of the court in refusing to grant a motion in arrest of judgment on the same ground. 3. The refusal to set aside the verdict because the facts proved did not constitute an offense against the United States. 4. The denial of a motion to dismiss the prosecution at the request of the defendants on the ground that the Selective Draft Law upon which the alleged duty to register depended was repugnant to the Constitution and void, there being numerous specifications on this subject involving a challenge of all power in Congress to have enacted the law and



The Emma Goldman Papers

Goldman [&] Berkman v. United States: [Slip Opinion] 1918 Jan. 14 / Supreme Court of the United States. — 3 p. ; 21 x 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court upholds the constitutionality of the Selective Draft Act in its opinion in Goldman's appeal.

Notes: For decision printed in *United States Reports*, see 880329034.

moreover upon the assumption of some power an assertion of the repugnancy of the statute to the Constitution resulting from various provisions which the Act contained. 5. The denial by the court of a motion made at the close of the case to dismiss the indictment on the ground that it stated no offense as previously insisted and upon the further ground that in any event there was no proof of the alleged conspiracy or the averred overt acts or of any act adequate to show guilt. 6 and 7. The refusal of a motion to set aside the verdict and in arrest of judgment because the verdict was contrary to law and unsupported by evidence upon grounds which had been previously urged and overruled.

Putting aside the multiplication which results from urging the same ground several times because when once made it was adhered to and reiterated at different stages of the trial, it is clear that the assignments embrace only three propositions: 1. The failure to dismiss the prosecution because of the repugnancy of the Selective Draft Law to the Constitution for the reasons relied upon. 2. The refusal to dismiss because the indictment stated no offense. 3. The refusal to dismiss because there was no proof of conspiracy or of any overt acts adequate to have justified the submission of the case to the jury. Indeed in the elaborate argument at bar all the assignments of error are treated as embraced under the propositions thus stated and we therefore come to dispose of the case from such point of view.

1. The grounds here made the basis of the charge that the Selective Draft Law is repugnant to the Constitution are, so far as they concern the question of registration provided for by that law, identical with those which were urged in *Arver v. United States*, ante, p. —, and were there adversely disposed of. The ruling in that case therefore also adversely disposes of all the relevant constitutional questions in this. The duty nevertheless remains to consider the other questions. *Brotan v. United States*, 236 U. S. 216, 217-218.

2. The contention that the indictment stated no offense proceeds upon the assumption reiterated in various forms of statement that no crime results from an unlawful conspiracy to bring about an illegal act joined with the doing of overt acts in furtherance of the conspiracy unless the conspiracy has accomplished its unlawful purpose by causing the illegal act to be committed. This, however, but disregards the settled doctrine that an unlawful conspiracy



The Emma Goldman Papers

Goldman [&] Berkman v. United States: [Slip Opinion] 1918 Jan. 14 / Supreme Court of the United States. — 3 p. ; 21 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court upholds the constitutionality of the Selective Draft Act in its opinion in Goldman's appeal.

Notes: For decision printed in *United States Reports*, see 880329034.

702
3

Goldman et al. vs. The United States.

3

under Section 37 of the Criminal Code to bring about an illegal act and the doing of overt acts in furtherance of such conspiracy is in and of itself inherently and substantively a crime punishable as such irrespective of whether the result of the conspiracy has been to accomplish its illegal end. *United States v. Rabinowich*, 235 U. S. 78, 85, 86, and authorities there cited.

3. Sifting out of the arguments advanced to support the proposition that there was no evidence whatever tending to show guilt, contentions based upon the misconception as to the law of conspiracy which we have just adversely disposed of, and, moreover, contentions concerning an asserted misuse of discretion by the court below in ruling on an application to postpone the trial, which as we have seen, were not even remotely referred to in the assignments of error, we think all the arguments rest upon the assumption that the power to review embraces the right to invade the province of the jury by determining questions of credibility and weight of evidence and from the residuum of evidence resulting from indulging in and applying the results of such erroneous assumption drawing the conclusion as to no evidence relied upon. While this statement suffices to dispose of the case without going further, we nevertheless say without recapitulating the evidence that after a review of the whole record we think the proposition that there was no evidence whatever of guilt to go to the jury is absolutely devoid of merit.

It follows that the judgment below must be and it is

Affirmed.



327

The Emma Goldman Papers

880329034

Goldman et al. v. United States / [Supreme Court of the United States]. — p. 474-477 ; 22 cm. In United States Reports. — Vol. 245 (Jan. 14, 1918).

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court denies Goldman's appeal and affirms the constitutionality of the Selective Draft Act.

Notes: Two shots of four pages. For slip opinion, see 810206060.

474

OCTOBER TERM, 1917.

Counsel for Parties.

245 U. S.

GOLDMAN ET AL. v. UNITED STATES.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK.

No. 702. Argued December 13, 14, 1917.—Decided January 14, 1918.

The Selective Draft Law of May 18, 1917, upheld as constitutional, on the authority of the *Selective Draft Law Cases*, ante, 366, in a case of conspiracy to violate the act by dissuading persons from registering. In reviewing directly a judgment of the District Court in a criminal case, when the constitutional questions upon which the jurisdiction of this court depends are not frivolous but are resolved against the plaintiff in error, other questions raised are to be considered and passed upon.

It is well settled that, under § 37 of the Criminal Code, a conspiracy to commit an offense, when followed by overt acts, is punishable as a substantive crime, whether the illegal end has been accomplished or not.

Upon a review of the whole record, the court finds that the objection that there was no evidence of guilt for the jury is absolutely devoid of merit, and based upon the false assumption that the power to review includes the right to invade the province of the jury by determining questions of credibility and weight of evidence. Affirmed.

THE case is stated in the opinion.

Mr. Harry Weinberger for plaintiffs in error.

The Solicitor General, with whom Mr. Robert Szold was on the brief, for the United States. See ante, 368.

Mr. Hannis Taylor and Mr. Joseph E. Black, by leave of court, filed a brief as *amici curiæ*.

Mr. Walter Nelles, by leave of court, filed a brief as *amicus curiæ*.

GOLDMAN v. UNITED STATES.

475

474.

Opinion of the Court.

MR. CHIEF JUSTICE WHITE delivered the opinion of the court.

Because of the constitutional questions involved the plaintiffs in error prosecute this direct writ of error to reverse a criminal conviction and resulting sentence imposed upon them. The indictment upon which the conviction was had charged them with having, in violation of §§ 37 and 332 of the Criminal Code, unlawfully conspired together and with others unknown to induce persons, who by the Selective Draft Law of May 18, 1917, c. 15, 40 Stat. 76, were under the duty to register, to disobey the law by failing to register. Five specified overt acts were in the indictment charged to have to have been committed in furtherance of the alleged illegal conspiracy.

Seven grounds of error were assigned at the time of the allowance of the writ: 1. The refusal of the court at the request of the defendants to dismiss the indictment on the ground that the formation of a conspiracy to induce persons not to register as they were required under the law to do, and the performance of overt acts to carry out the conspiracy, constituted no offense. 2. The action of the court in refusing to grant a motion in arrest of judgment on the same ground. 3. The refusal to set aside the verdict because the facts proved did not constitute an offense against the United States. 4. The denial of a motion to dismiss the prosecution at the request of the defendants on the ground that the Selective Draft Law, upon which the alleged duty to register depended, was repugnant to the Constitution and void, there being numerous specifications on this subject involving a challenge of all power in Congress to have enacted the law, and, moreover (upon the assumption of some power,) an assertion of the repugnancy of the statute to the Constitution, resulting from various provisions which the act contained. 5. The de-

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THE NATIONAL ARCHIVES
Record Group No. 267

Record Group 267: Records of the Supreme Court of the
United States
United States Reports, October Term 1917, Vol. 245,
Cases Adjudged in the Supreme Court

The Emma Goldman Papers

880329034

Goldman et al. v. United States / [Supreme Court of the United States]. — p. 474-477 ; 22 cm. In United States Reports. — Vol. 245 (Jan. 14, 1918).

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court denies Goldman's appeal and affirms the constitutionality of the Selective Draft Act.

Notes: Two shots of four pages. For slip opinion, see 810206060.

476

OCTOBER TERM, 1917.

Opinion of the Court.

245 U. S.

nial by the court of a motion made at the close of the case to dismiss the indictment on the ground that it stated no offense, as previously insisted, and upon the further ground that, in any event, there was no proof of the alleged conspiracy or the averred overt acts, or of any act adequate to show guilt. 6 and 7. The refusal of a motion to set aside the verdict and in arrest of judgment because the verdict was contrary to law and unsupported by evidence, upon grounds which had been previously urged and overruled.

Putting aside the multiplication which results from urging the same ground several times because when once made it was adhered to and reiterated at different stages of the trial, it is clear that the assignments embrace only three propositions: 1. The failure to dismiss the prosecution because of the repugnancy of the Selective Draft Law to the Constitution, for the reasons relied upon. 2. The refusal to dismiss because the indictment stated no offense. 3. The refusal to dismiss because there was no proof of conspiracy or of any overt acts adequate to have justified the submission of the case to the jury. Indeed in the elaborate argument at bar all the assignments of error are treated as embraced under the propositions thus stated and we therefore come to dispose of the case from such point of view.

1. The grounds here made the basis of the charge that the Selective Draft Law is repugnant to the Constitution are, so far as they concern the question of registration provided for by that law, identical with those which were urged in *Arver v. United States* [Selective Draft Law Cases], ante, 366, and were there adversely disposed of. The ruling in that case therefore also adversely disposes of all the relevant constitutional questions in this. The duty nevertheless remains to consider the other questions. *Brolan v. United States*, 236 U. S. 216, 217-218.

2. The contention that the indictment stated no of-

GOLDMAN v. UNITED STATES.

477

Opinion of the Court.

474.

fense proceeds upon the assumption, reiterated in various forms of statement, that no crime results from an unlawful conspiracy to bring about an illegal act, joined with the doing of overt acts in furtherance of the conspiracy, unless the conspiracy has accomplished its unlawful purpose by causing the illegal act to be committed. This, however, but disregards the settled doctrine that an unlawful conspiracy under § 37 of the Criminal Code to bring about an illegal act and the doing of overt acts in furtherance of such conspiracy is in and of itself inherently and substantively a crime punishable as such irrespective of whether the result of the conspiracy has been to accomplish its illegal end. *United States v. Rabinowich*, 238 U. S. 78, 85, 86, and authorities there cited.

3. Sifting out of the arguments advanced to support the proposition that there was no evidence whatever tending to show guilt, contentions based upon the misconception as to the law of conspiracy which we have just adversely disposed of, and, moreover, contentions concerning an asserted misuse of discretion by the court below in ruling on an application to postpone the trial, which, as we have seen, were not even remotely referred to in the assignments of error, we think all the arguments rest upon the assumption that the power to review embraces the right to invade the province of the jury by determining questions of credibility and weight of evidence and from the residuum of evidence, resulting from indulging in and applying the results of such erroneous assumption, drawing the conclusion as to no evidence relied upon. While this statement suffices to dispose of the case without going further, we nevertheless say without recapitulating the evidence that after a review of the whole record we think the proposition that there was no evidence whatever of guilt to go to the jury is absolutely devoid of merit.

It follows that the judgment below must be and it is

Affirmed.

THE NATIONAL ARCHIVES
Record Group No. 267

Record Group 267: Records of the Supreme Court of the United States
United States Reports, October Term 1917, Vol. 245,
Cases Adjudged in the Supreme Court

329

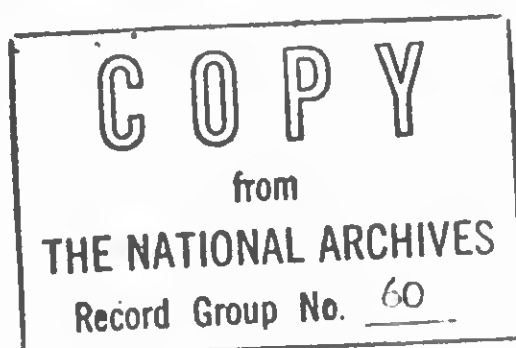
The Emma Goldman Papers

[Memorandum, 1918 Jan. 14? Washington, D.C. to John W. Davis] Solicitor General
[Department of Justice, Washington, D.C.] / W.J. H[ughes, Assistant Solicitor General,
Department of Justice].— 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Hughes asks Davis if he should notify Goldman's attorney that he will ask the Supreme Court to issue its mandate.

Notes: For enclosure, see 810113342.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

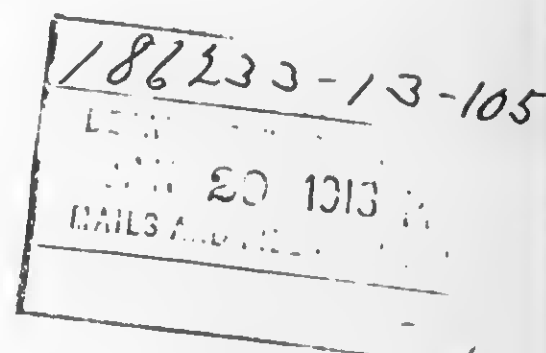
MEMORANDUM FOR THE SOLICITOR GENERAL.

All of the Selective Draft Cases now having been decided, shall I give notice to opposing counsel that on Monday next you will ask the court to send down the mandates forthwith? Attached is memorandum, at the bottom of which is the answer of Mr. Maher to my question.

WJH

186233-13-

JAN 30 1918



The Emma Goldman Papers

[Memorandum, 1918 Jan. 14? Washington, D.C. to James D. Maher, Clerk, United States Supreme Court, Washington, D.C.] / W[illiam] J. H[ughes, Assistant Solicitor General, Department of Justice]. — 1 p. ; 36 × 22 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 60.
Summary: Hughes asks the Supreme Court clerk if the Court would agree to issue its mandate immediately.
Notes: Handwritten affirmative response by Maher. Enclosed with 810113341.

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from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

Name of borrower	Books from Law Library
Author	SUPREME COURT OF THE UNITED STATES
Vol.	The Librarian is requested to send into Court for my use the following named books:
Title	Should the Court favorably regard a motion to send down the mandate of the court in the selective draft cases at once?
Copy	J. H.
Date returned	Yes - after notice

The Emma Goldman Papers

Goldman [&] Berkman v. United States: [Affirmation of Judgment] 1918 Jan. 14 / [Edward] White, Chief Justice, United States Supreme Court. — 1 p. ; 27 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court affirms the District Court's judgment in Goldman and Berkman's case.

Supreme Court of the United States,

No. 702 ———, October Term, 1917.

Emma Goldman and Alexander Berkman,

Plaintiffs in Error,

vs.

The United States.

In Error to the District ——— Court of the United States
for the Southern ——— District of New York.

This cause came on to be heard on the transcript of the record
from the District ——— Court of the United States for the
Southern ——— District of New York ———, and was argued
by counsel.

On consideration whereof, It is now here ordered and
adjudged by this Court that the judgment of the said District ———
Court in this cause be, and the same is hereby affirmed.

Per Mr. Chief Justice White



January 14, 1918.

The Emma Goldman Papers

[Goldman & Berkman v. United States: Mandate] 1918 Jan. 14 / [Supreme Court of the United States].— 2 p. ; 27 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court informs the District Court that it has affirmed its judgment in the Goldman-Berkman case.

Notes: Enclosed with 810206057 and 810113343.

United States of America, ss:

The President of the United States of America.

To the Honorable the Judges of the District
Court of the United States for the Southern
District of New York,

(SEAL).

GREETING:

Whereas, lately in the District Court of the United States
for the Southern District of New York, before you,
or some of you, in a cause between The United States of America, plain-
tiff, and Alexander Berkman and Emma Goldman, defendants, wherein
the judgment of the said District Court, entered in said cause on
the 9th day of July, A. D. 1917, is in the following words, viz:

"I sentence the defendant Alexander Berkman to the United
States Penitentiary in Atlanta for two years and fine him the sum
of ten thousand dollars (\$10,000).

I sentence the defendant Emma Goldman to the State Peniten-
tiary at Jefferson City, Missouri, for two years and fine her the sum
of ten thousand dollars (\$10,000)."



The Emma Goldman Papers

[Goldman & Berkman v. United States: Mandate] 1918 Jan. 14 / [Supreme Court of the United States].— 2 p. ; 27 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court informs the District Court that it has affirmed its judgment in the Goldman-Berkman case.

Notes: Enclosed with 810206057 and 810113343.

And whereas, in the present term of October, in the year of our Lord one thousand nine hundred and seventeen, the said cause came on to be heard before the said SUPREME COURT, on the said transcript of record, and was argued by counsel:

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court, in this cause be, and the same is hereby, affirmed.

January 14, 1918.



The Emma Goldman Papers

[Telegram] 1918 Jan. 15, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk [United States Supreme Court]. — 1 p. ; 19 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Maher cannot send Weinberger typed copies of the Court's opinion.

Notes: Broken type; light copy; barely legible. Reply to 850712484. Same text as 870616000, but in different format.

TYPE OF MESSAGE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nil
Night Letter	N.L.

If none of these three symbols appears after the check number of message, it is a day message. Otherwise its character is indicated by the symbol appearing after the check.

WESTERN UNION TELEGRAM

TYPE OF MESSAGE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nil
Night Letter	N.L.

If none of these three symbols appears after the check number of message, it is a day message. Otherwise its character is indicated by the symbol appearing after the check.

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

RECEIVED AT

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300 BROADWAY N.Y.
7 511117

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CS WASHINGTON DC 1140A 15

HARRY WEINBERGER

201 BROADWAY NEWYORK

I CAN SEND OPINION GOLDMAN BERNHEIM CASES SOON AS PRINTED

CANNOT FURNISH TYPEWRITTEN COPIES

JAMES D MAHER

CLERK.

BEST COPY AVAILABLE

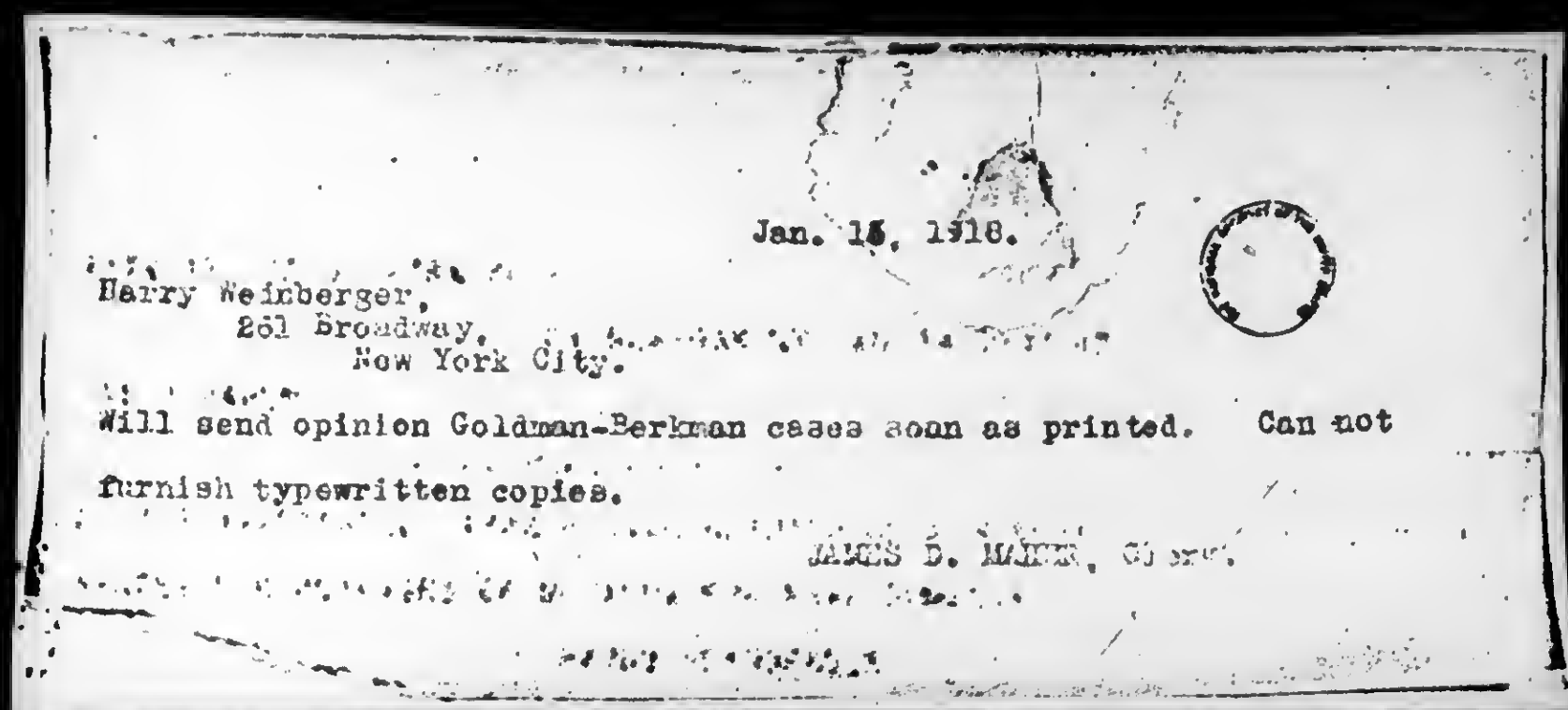
335

The Emma Goldman Papers

[Letter] 1918 Jan. 15 [Washington, D.C. to] Harry Weinberger, New York / James D. Maher, Clerk [United States Supreme Court]. — 1 p. ; 8 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Bleedthrough. Barely legible. Reply to 810206034. Same text as 850712487, but in different format.



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The Emma Goldman Papers

[Letter] 1918 Jan. 15, New York [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 23 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

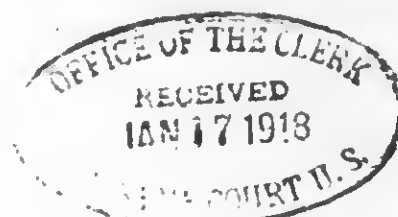
Summary: Weinberger asks Maher to warn him when the Court sends its mandate to the District Court.

Notes: Broken type; light copy. For reply, see 850712488 and 850712492.

HARRY WEINBERGER
COUNSELLOR AT LAW
361 BROADWAY, NEW YORK
TELEPHONE CONNECTION

January 15th, 1918

James D. Maher, Esq.,
Clerk, United States Supreme Court,
Washington, D.C.



Dear Sir:-

Will you, one day before you send the mandate in the Berkman-Goldman case to New York, send me a wire collect?

Will you also advise me now whether the mandate will be sent to New York before the 15th of February?

Respectfully yours,

Harry Weinberger

The Emma Goldman Papers

[File Memorandum for Harry Weinberger, 1918 Jan. 15?] / [James? D.? Maher? Clerk, United States Supreme Court].— 1 p. ; 18 × 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Maher reminds himself to notify Harry Weinberger when the Court issues its mandate to the District Court.

Notes: Response to 810206035.

70²
26/69

Harry Weinberger
261 Broadway
New York City
N.Y.

Write him when mandate
is issued -

Mandate Goldman vs Berkman
against United States goes to the
Solicitor General to-day

The Emma Goldman Papers

Against Draft Obstructors — 25 cm. In [Baltimore Sun (Jan. 15, 1918)] / [author unknown].

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: The War Department keeps a clipping from *The Baltimore Sun* describing the outcome of Goldman and Berkman's Supreme Court appeal.

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION

MAR 9

10110-312

1918

WAR DEPARTMENT

*Clipping from
Balt. Sun
1-15-18*

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AGAINST DRAFT OBSTRUCTORS
Conviction of Emma Goldman,
Berkman And Others Sustained.
Washington, Jan. 11. Conviction of Emma Goldman and Alexander Berkman, on charges of conspiring to prevent the operation of the selective service act by urging men of draft age not to register, was today sustained by the Supreme Court.
Conviction of Louis Kramer and Morris Becker, on charges of conspiracy to prevent persons of draft ages from registering in New York, were also affirmed. Kramer was sentenced to two years' imprisonment and \$10,000 fine, and Becker to twenty months' imprisonment.
The Supreme Court today sustained the Ohio decrees, sentencing Charles E. Ruthenberg, Alfred Wagenknecht and Charles Becker to one year's imprisonment for violating the draft law.
Miss Goldman and Berkman were convicted in New York and sentenced to serve two years in prison and a fine of \$10,000 each. Both contended the act was unconstitutional, but the Supreme Court last Monday upheld the law, although at that time it rendered no opinion in the cases involving conspiracy charges.
Ruthenberg and the other Ohio men were convicted on charges of conspiring to prevent Alphonse J. Schue from registering under the selective service act.

CARS CRASH IN LOUISVILLE

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339

The Emma Goldman Papers

Affirms Sentence on Emma Goldman — 29 cm. In [New York Times (Jan. 15, 1918)]
/ [author unknown].

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: The War Department keeps a clipping from *The New York Times* reporting the outcome of Goldman and Berkman's Supreme Court appeal and other challenges to the draft.

AFFIRMS SENTENCE ON EMMA GOLDMAN

Supreme Court Decision Sends
Berkman Also to Prison
for Two Years.

ALL DRAFT APPEALS LOST

Aliens Subject to Military Duty,
According to Final Ruling in
an Ohio Case.

Special to The New York Times.

WASHINGTON, Jan. 14.—Decisions were announced today by the Supreme Court of the United States in cases involving conspiracy to resist the selective draft law. In all of them the judgments of the courts below were affirmed.

In these cases were those of Emma Goldman and Alexander Berkman, whose offense was making street speeches in New York and issuing literature opposed to compliance with the draft law. Miss Goldman and Berkman were convicted in New York and sentenced to serve two years in prison and a fine of \$10,000 each. Both contended the act was unconstitutional, but the Supreme Court last Monday upheld the law, although the Court at that time rendered no opinion in the cases involving conspiracy charges.

Perhaps the most important consideration in the result of these cases, opinions in all of which were prepared by Chief Justice White, was the declaration in an Ohio case that aliens, by the terms of the law, are subject to military service and the operation of the Selective Draft act.

In the Ohio case the defense was made that Charles E. Ruthenburg, Alfred Wagenknecht, and Charles Baker, who advised Alphons J. Schue not to register had been deprived of a statutory constitutional right by the fact that they, being Socialists, members of other political parties on the Grand and trial juries, were prejudiced against them. The court held that the same question had been decided in the case of negroes before white juries, and the contention was "without merit." The same question arose because the lower court ruled out question to see if jury men distinguished between Socialists and anarchists. The Supreme Court also regarded this contention as without merit.

The technical contention that the defendants were not tried by a jury from the State and district where the crime was committed and that the jury was drawn from a part or a division of the district was dismissed as squarely at variance with the Constitution in the Sixty-eighth Amendment and the Judiciary act of 1789.

The defense was made for Schue that the indictment did not allege that he was an alien. The court held that this was not necessary, that he was within the draft age, and therefore liable to be selected.

"The persons described," said the Chief Justice, "were subject to military duty. Under the terms of the act by Section 5, 'all male persons between the ages of 21 and 30, both inclusive,' were required to register."

Ruthenburg and the others who advised Schue are held as equally responsible with him under the Federal statute that makes the accessory liable with the principal in criminal responsibility. The three defendants were sentenced to one year's imprisonment each.

The Goldman and Berkman cases were held to be decided by the Arvir case last week, in which the entire scope of the draft law and its constitutionality were discussed. The defense that there was no conspiracy because the acts complained of were overt and there was no proof that they caused any one to disobey the law was swept aside as being absolutely without merit. The court held that "the overt act is in and of itself inherently and substantially a crime punishable as such irrespective of whether the result of the conspiracy has been to accomplish its illegal end."

Conviction of Louis Kramer and Morris Becker on charges of conspiracy to prevent persons of draft ages from registering in New York was also affirmed. Kramer was sentenced to two years' imprisonment and a \$10,000 fine, and Becker to twenty months' imprisonment.

OFFICE CHIEF OF CLERK
WAR COLLEGE DIVISION

9

MAE

10110-3225

1918

WAR DEPARTMENT

Clipping

*New York Times
1-15-18*

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The Emma Goldman Papers

[Memorandum re: Draft Cases, Washington, D.C.? 19]18 Jan. 15 / [Military Intelligence Division, War Department].— 1 p.; 21 × 14 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Someone in the War Department summarizes the charges and sentences in the Selective Draft cases upheld by the Supreme Court on January 14, 1918.

Notes: Synopsis of 810402052.

G a - 2

Washington.

Emma Goldman and Alexander Berkman convicted of seditious talk opposing draft by U. S. Dist. Court, N.Y. last summer. Sentenced 2 years and \$10,000 each.

Louis Kramer and Morris Becker convicted in N.Y. of conspiracy to prevent compliance with draft law. Kramer sentenced 2 years and \$10,000; Becker—twenty months.

Charles E. Ruthenburg, Alfred Wagenknecht, Charles Baker, convicted in Ohio on similar indictments were sentenced 1 year each.

Jan. 14, 1918. Supreme Court of U. S. affirmed all convictions.

N.Y. Times 1/15/18.

The Emma Goldman Papers

[Telegram] 1918 Jan. 15, Providence, R.I. [to Thomas Watt Gregory] Attorney General [Department of Justice], Washington, D.C. / [Harvey A.] Baker, U[nited] S[tates] Attorney [Department of Justice]. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Baker asks Gregory for copies of the Supreme Court opinion and original indictments in the Selective Draft cases.

Notes: Dark copy. For reply, see 810113326.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

Department of Justice

TELEGRAM RECEIVED

708 88 2072

Providence, R.I., January 15, 1918

The Attorney General

Washington, D.C.

Please forward copies of opinions and indictments in draft cases

decided yesterday by Supreme Court to use in argument of Communist

Very truly

Harvey A. Baker

Baker

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Report re: David Goldman] Houston, Texas, 1918 Jan. 15 / Office Chief of Staff
[Military Intelligence Division, War Department]. — 1 p. ; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: The War Department summarizes its case against David Goldman, possibly related to Emma Goldman and a member of the I.W.W.

Jan. 15th, 1918.

INTELLIGENCE SECTION
OFFICE CHIEF OF STAFF
33RD DIVISION

Camp Logan, Houston, Texas.

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION
JAN 23 1918
10555-16
WAR DEPARTMENT

- A. David J. Goldman.
- B. Camp Logan, Houston, Texas.
- C. January 15, 1918.
- D. January 6, 1918.
- E. Unknown.
- F. Breaker of the Morale of the troops of his company.
- G. Dangerous.
- H.
- I. Anti-Government.
- J. Reliable.
- K. Member of the I.W.W. at Chicago.
- L. Under close observation.

Remarks:

Supposed relation of Emma Goldman of I.W.W. fame.
Drafted and applied for S.C.D. at Base Hospital.
Same refused and he is now back with his company.
Wireless and other systems of Telegraph expert.
Under influence of alcohol stated messages are
sent over border to Chihuahua, Mexico and thence
by wireless to -----?

Transmitting letter 10420-7

The Emma Goldman Papers

810113326

[Letter] 1918 Jan. 16 [Washington, D.C. to] Harvey A. Baker, United States Attorney [Department of Justice], Providence, R.I. / John W. Davis, Solicitor General [Department of Justice].— 1 p. ; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Davis sends Baker a copy of the indictment against Goldman and Berkman and will send the Supreme Court's opinion later.

Notes: For enclosure, see 850806188. Reply to 810113325.

C O P Y
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

80-WJH-LJB

186233-13-89

January 16, 1918.

Harvey A. Baker, Esq.,

United States Attorney,

Providence, Rhode Island.

Sir:

In accordance with the request contained in your telegram of the 15th, I send you herewith photostat copies of the indictments in the Goldman and Berkman case, No.702, and the Ruthenberg case, No.656, which cases were decided by the Supreme Court on Monday last.

The opinions of the Court are not yet in print, but as soon as available copies will be sent you.

Respectfully,

(Signed) Jno. W. Davis

Solicitor General.

Enc.101228.

BEST COPY AVAILABLE

344

The Emma Goldman Papers

[Memorandum] 1918 Jan. 16 [Washington, D.C. to] Nicholas Biddle [Military Intelligence Division, War Department], New York / R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department].— 1 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Van Deman sends Major Biddle information on M.E. Fitzgerald, including her relationship with Goldman and the radical movement.

Notes: Broken type; light copy. For original report, see 810402039.

110-364-W.I.4.

January 16, 1918.

CHIEF OF STAFF
MILITARY INTELLIGENCE DIVISION
G O
10110-564
10
1918
WAR DEPARTMENT

From: Chief, Military Intelligence Section.
To: Major Nicholas Biddle, New York, N.Y.
Subject: Miss Fitzgerald, 226 Lafayette Street, New York, N.Y.

1. This office is in receipt of information to the effect that one Miss Fitzgerald, commonly called "Fitzie", is now in New York City, making her headquarters at the "Mother Earth" offices, 226 Lafayette St., and is publishing a small pamphlet or bulletin which she is circulating among the "Mother Earth" subscribers, since that paper was denied the mails. I should be interested in seeing a copy of this pamphlet. She, apparently, corresponds considerably with a Miss Gertrude Barrett, who is a Radical in Los Angeles, connected with the Lasky Moving Picture Studio, whom she keeps informed on many matters of importance, and may be using her as an agent to distribute her suppressed publications in Los Angeles. Miss Fitzgerald is supposed to have taken Alexander Berkman away from Emma Goldman, and has come into such power and influence that Emma Goldman has never really forgiven her, but she is not in a position to declare open warfare against her. Our informant states that Miss Fitzgerald is in some ways a greater power among the Radicals than Emma Goldman, that she is absolutely fearless, is a good writer, a fairly good speaker, and has been named "The Lioness" among her followers. She does most of her effective work in secret council and in a quiet way, and is one of the principal advisers in all the big things undertaken. It is claimed that the reason Miss Fitzgerald has not been arrested is that the Government is using her as a bait with which to catch the other leaders, but that a system has been arranged whereby the real leaders are kept in close touch with her, without danger of detection by the Federal Agents.

2. Of the above, I am not personally aware, but I think you should be acquainted with all of this information just as it has come to me.

R. H. VAN DEMAN.

Colonel, General Staff.

By HERBERT PARSONS

hcm

Major, U. S. R.

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The Emma Goldman Papers

[Telegram] 1918 Jan. 16 [Washington, D.C. to J. Herbert] Cole [Agent in Charge? Bureau of Investigation, Department of Justice], Detroit, Mich. / [A. Bruce] Bielaski [Chief, Bureau of Investigation, Department of Justice]. — 1 p. ; 25 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski instructs Cole to follow Goldman while she is in Detroit, but not to interfere with her meetings.

Notes: Dark copy; barely legible.

ALL
ALS

15446

January 16, 1918.

Cole,

Federal Building,

Detroit, Michigan.

Summed. Cover meeting and activities Emma Goldman while Detroit and advise when she leaves, where for, etc. Do not take any steps to interfere with holding meetings.

BIELASKI.

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The Emma Goldman Papers

[Letter] 1918 Jan. 16, Washington, D.C. [to A. Bruce] Bielaski [Chief, Bureau of Investigation, Department of Justice, Washington, D.C.] / William C. Fitts, Assistant Attorney General, Department of Justice. - 2 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Fitts asks for Bielaski's cooperation in preventing the distribution of non-mailable publications via private express companies.

Notes: For enclosure, see 880928041. For Bielaski's response, see 880928042 and 880928051.

ADDRESS ONLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND RUN IN

KCP-HSR

DEPARTMENT OF JUSTICE.
WASHINGTON, D.C.

ESR-BOL

For Immediate

January 16, 1918.

Dear Mr. Bielaski:

Arrangements have been completed with representatives of all the Express Companies doing business within the United States, whereby they will undertake to refuse to accept for transportation not only any matter excluded by the Postmaster General from the mails under the Espionage Act, but any subsequent editions of such papers regardless of the fact whether the particular edition offered for transportation contains unlawful matter. I enclose herein a detailed description of the matter heretofore excluded from the mails. Copies of this have been furnished representatives of the Express Companies, and it is the plan of the Postmaster General to see that this Department is furnished with copies of newspapers or other matter hereafter excluded from the mails under the Espionage Act, and copies of his orders covering them.

It is appreciated that because of the hidden methods by which the publishers and others may seek the distribu-

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The Emma Goldman Papers

[Letter] 1918 Jan. 16, Washington, D.C. [to A. Bruce] Bielaski [Chief, Bureau of Investigation, Department of Justice, Washington, D.C.] / William C. Fitts, Assistant Attorney General, Department of Justice. — 2 p. ; 19 × 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Fitts asks for Bielaski's cooperation in preventing the distribution of non-mailable publications via private express companies.

Notes: For enclosure, see 880928041. For Bielaski's response, see 880928042 and 880928051.

Mr. Bielaski: ---

tion of their literature, it will be difficult for the Express Companies and their various agents to bring about an entire exclusion of this class of matter from expresse transportation. To the end, however, that its distribution may be reduced to a minimum, the Express Companies are advising all their representatives from their agents up, of the class of matter to be refused acceptance, and it is desired that you shall instruct all your agents concerning this matter, and that they should not only themselves be upon the lookout for the dissemination, through Express Companies or otherwise, of this class of matter, but that they should cooperate wherever necessary with representatives of the Express Companies in attempting to ferret out those directly or indirectly connected with the distribution and transportation of such literature.

William C. Fitts

Assistant Attorney General.

Inclosure.

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 16 /
[Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].—
3 p.; 27 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes Goldman's lecture on the Bolsheviks, given in Detroit on January 15, 1918.

REPORT MADE BY: Informant Rodau	PLACE WHERE MADE: Detroit, Mich	DATE WHEN MADE: 1-16-1918	PERIOD FOR WHICH MADE: 1-15-1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER IN WHICH INVESTIGATION MADE: Re: Emma Goldman Anarchist			
STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC. At Detroit, Mich.			
<p>Pursuant to instructions of Agent in Charge, I proceeded to the Social Turner Hall at 136 Sherman St. and attended a meeting at which <u>Emma Goldman</u> spoke. She spoke about the Bolsheviks and praising the great works of Trotsky and Lenine and other followers, saying that "the greatest lie ever produced by the American press is that Lenine is an Agent of the Kaiser and this shameless lie is still greater when applied to Trotsky; that I have known him personally; that he never worked for any money; that he was in great need when he was in America and a private collection had to be arranged to send him back to Russia and a man of his principal would certainly not sell themselves to the Kaiser for money. Any thing that he does is for the truth and the good of the workingmen; America is supposed to be fighting for freedom, for equality and for liberty and the Bolsheviks are supposed to do the same but the difference between the two is, that President Wilson only talks and the Bolshevik acts. We do not wish to have anything to do with those that represent capital; all those against workingmen are those that represent the Government."</p> <p>"I may even go further and say that the Bolsheviks may unite with Germany in order to stop the revolution with Russia. The reason why the Germans do not want the Russian's at the front is, that they are afraid that the Russian soldier with his spirit of freedom and revolution at the present time might influence the Germans, and America is a thousand times more afraid of the Russian soldier going back to fight because they will influence revolution</p>			
PART OF THIS REPORT FORWARDED TO: P. 6			

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 16 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].— 3 p.; 27 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes Goldman's lecture on the Bolsheviki, given in Detroit on January 15, 1918.

Re: Emma Goldman (Cont'd) Informant Rodau for Tuesday, January 15, '18

in America and America hates a thousand times more a revolution than Germany, and America claims that the Russian revolutionists have gone back to Russia, carrying along stories about atrocity of America, and believe me they have said the truth. Those that went back told how they were skinned in America as soon as they stepped from Ellis Island and how they were beat up in the factories and all the other hardships they suffered they have related to the Russian revolutionists."

This lecture was in the Yiddish language and attended by a large crowd. Sophie Markowitz, 1212 St. Antoine Street, a well known Detroit Anarchist and I. W. W. was present and going arm in arm with Emma Goldman after they had left the meeting, talking in the Russian language, Emma Goldman consoling her about something saying "Everything will be all right, don't worry, Sophie"

Otto Just (Known as the wondering Jew) one of the Defendants in the Haywood I. W. W. case was present, Agnes Inglis - Emma Goldman's most intimate friend in Detroit was present; also Markowitz and many other I. W. W. and Anarchists, whose names I do not know at present. The whole lecture was conducted in the Jewish language. At this meeting they sold newspapers, namely "Der Yiddisher Kampfer" an organ of the Jewish Socialist Workingmen's party and the "Poila Zionist" which is published in New York, 256 Grand Street and appears every Friday also announcements in the Jewish language of the ball which will be given by the 337th. branch of the Workingmen's Ring on Saturday the 19th. of January in St. Andrews Hall, 109 Congress Street, East and also announcements in the English language as follows: "Last lecture tour of Emma Goldman before her commitment to Jefferson Penitentiary - do you want to understand the Russian situation. Subject - The Truth before the Bolsheviki. Wednesday, January 16th. 8:00 P. M. Women Martyr's of Russia. Thursday - January 17th. 8:00 P. M. at Social Turner Hall, Questions and

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The Emma Goldman Papers

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[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 16 /
[Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].—
3 p.; 27 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes Goldman's lecture on the Bolsheviki, given in Detroit on January 15, 1918.

Re: Emma Goldman (Con'td) Informant Rodau for Tuesday, January 15th, 1918.

Discussions, Admission 25¢. Miss Goldman is out on bail pending a decision of the Supreme Court of the United States. She has been sentenced to two years imprisonment and \$10,000.00 fine. This is her last tour and we hope her friends will turn out and bid her farewell."

I am covering all her activities in Detroit in the best possible way and shall attend the series of lectures which she will give in Detroit.

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 16 / S.T. Klawans [Agent, Bureau of Investigation, Department of Justice]. — 3 p.; 33 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agent Klawans describes the material related to Goldman's January 1918 speaking tour in Detroit, which he obtained from Minnie Fishman via a confidential source. The material includes Goldman's personal correspondence and lists of lecture topics and dates.

Notes: For follow-up report, see 850205039.

REPORT FORM NO. 1

JAN 21 1918

REPORT MADE BY: S. T. Klawans	PLACE WHERE MADE: Detroit, Mich	DATE WHEN MADE: 1-16-1918	PERIOD FOR WHICH MADE: 1-15-1918
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TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION:

Re: Emma Goldman
Anarchist

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:

At Detroit, Mich. Hill

In connection with one, Minnie Fishman, 1620 West Grand Blvd. this city, an Anarchist, Emma Goldman's intimate friend, who has been under surveillance of this office for some time, we were advised that Emma Goldman arrived in this city a day or two ago as a guest of Mrs. Fishman and was going to deliver two addresses here. Amongst papers, telegrams, memoranda, etc in the possession of Mrs. Fishman and confidentially brought to the attention of this office, I find upon examination of these effects a telegram signed "E" and dated New York City, November 14th. 1917 which reads as follows: "Fickert withdrew demand for extradition A B released." Another telegram, signed Sasha, dated New York City, January 3rd. which reads as follows: "Emma left New York at Six this evening on Number twenty three, New York Central Be sure to meet her find out when train comes in in case it is late. Best greetings to you and family." There was an additional memoranda with the words Thursday "The truth before the Bolsheviki" Friday- "Fore-runners of the Revolution" In Yiddish, Saturday - "Party", Sunday - "Truth of the Bolsheviki". In Yiddish - "More Martyr's of Russia". On the back of this memorandum was the following: "If you come to see Agnes Inglis come to the corner of Peterboro and Park, two blocks away where we are eating supper, it is a boarding house called The Scott." From this memoranda appears on one side to be a program mapped out for Emma Goldman while she is in Detroit.

Agnes Inglis, who with Minnie Fishman and Joseph Yanowitz are the three leading Anarchist's in Michigan, evidently

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COPY OF THIS REPORT FURNISHED TO:

• 7 - 817

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 16 / S.T. Klawans [Agent, Bureau of Investigation, Department of Justice]. — 3 p. ; 33 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agent Klawans describes the material related to Goldman's January 1918 speaking tour in Detroit, which he obtained from Minnie Fishman via a confidential source. The material includes Goldman's personal correspondence and lists of lecture topics and dates.

Notes: For follow-up report, see 850205039.

Re: Emma Goldman (Con'td) S. T. Klawans for Tuesday, January 15th. 1918

stops at the Scott Apartments when in Detroit, she spends most of her time at Ann Arbor, Michigan.

Another penciled memorandum contains the words - "Last tour of Emma Goldman before the commitment to Jefferson Penitentiary and do you want to understand the Russian situation."

Amongst the papers were a number of excerpts printed on individual sheets from various newspapers on the subject of Anarchy; also amongst these effects was a copy of the Blast of June 1, 1917; The Tri-City Labor Review of December 28th. 1917; cards containing lectures of Emma Goldman and Alexander Berkman; a copy of the Mother Earth Bulletin, Vol. 1, No. 1 New York City October 1917; some I. W. W. literature and a copy of Forum Folks of March 10, 1917, Detroit, Michigan, containing an article on Anarchy by Jo Labadie; another article on Socialism by Maurice Sugar; a personal letter to Mrs. Fishman from Emma Goldman dated New York City December 6, 1917 in which Emma Goldman speaks of her wretched condition due to the reaction of the terrible strain to prevent Sasha's extradition. In this letter she asks Mrs. Fishman to get together with Agnes (Inglis) and (Joseph) Yanowitz and arrange for her coming to Detroit, asking them to "run the show". In another letter, addressed "Dear Comrade" dated New York City December 6th. and signed Emma Goldman, she notes that she is going on a short tour and will stop in few cities between New York and Chicago; that she desires to hold two meetings in Detroit on December 19th. and 20th. She suggests that an advertisement announcing her meeting shall state that she is making this trip just before the decision of the United States Supreme Court, so that every one will be interested to come. She suggests further that she will speak on the Bolsheviki Revolution, its promises and fulfilment and at the second meeting she may speak in Jewish on the subject "Women Martyr's in Russia." She suggests that the admission be 25¢ and the

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 16 / S.T. Klawans [Agent, Bureau of Investigation, Department of Justice]. — 3 p. ; 33 × 22 cm. Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agent Klawans describes the material related to Goldman's January 1918 speaking tour in Detroit, which he obtained from Minnie Fishman via a confidential source. The material includes Goldman's personal correspondence and lists of lecture topics and dates.

Notes: For follow-up report, see 850205039.

REPORT FORM NO. 2

Re: Emma Goldman (Con'td) S. T. Klawans for Tuesday, January 15, 1918
proceeds go to a political defense, "We are still short \$1000.00 in disbursements and fees". She further states that at this meeting she intends to make appeals for the defense of the I. W. W. and that she has already begun to collect money and has raised from two meetings \$170.00. It has been ascertained that she will speak at the Social Turner Hall.

The Police Department has been advised concerning these meetings to be held by Emma Goldman in Detroit and will be careful not to let ^{her} proceed, if she makes any disloyal or objectionable utterances.

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., [19]18 Jan. 17 / J. Herbert Cole [Agent in Charge? Bureau of Investigation, Department of Justice]. — 1 p.; 34 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Pursuant to instructions, Agent Cole attended Goldman's lecture in Detroit on January 16, 1918, and reports that Goldman said nothing to warrant police interference.

REPORT FORM NO. 1

JAN 23 1918

REPORT MADE BY J. Herbert Cole	PLACE WHERE MADE Detroit, Mich.	DATE WHEN MADE 1-17-18	PERIOD FOR WHICH MADE 1-16-18
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION Re: Emma Goldman Anarchist.			

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.

At Detroit, Mich.

Agent tonight attended the lecture given by Emma Goldman at Social Turner Hall, which meeting was covered by several representatives of this office and by representatives of the Police Department. Nothing was said by Miss Goldman that warranted any steps being taken by the police to interfere with the meeting. She is billed to lecture again on Thursday night in English, on Friday night in Yiddish and is to give a sermon on Sunday in Yiddish.

Sent following telegram to Bielaski:

"Emma Goldman here and billed to speak at two meetings tonight and tomorrow night Have you any instructions."

Received following telegram from Bielaski:

"Telegram received Cover meeting and activities Emma Goldman while Detroit and advise when she leaves here where for etc Do not take any steps to interfere with holding meeting."

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COPY OF THIS REPORT FURNISHED TO:

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 17 /
[Antol] Rodau [Informant, Bureau of Investigation, Department of Justice]. —
3 p.; 27 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes his efforts to follow Goldman while she is in Detroit, including the surveillance of her meetings and her hotel. Rodau names several people present at Goldman's January 16, 1918, speech.

REPORT FORM NO. 1

REPORT MADE BY: Informant Rodau	PLACE WHERE MADE: Detroit, Mich	DATE WHEN MADE: 1-17-1918	PERIOD FOR WHICH MADE: 1-16-1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: Re: Emma Goldman Anarchist			
SYNOPSIS OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.: At Detroit, Mich. Pursuant to instructions of Agent in Charge, I was engaged on the above matter and ascertained that <u>Emma Goldman</u> was registered at the Statler Hotel and she is to speak tonight on Bolshevik in the English language at the Social Turner Hall at 136 Sherman Street and that tomorrow night, the 17th, she is to speak in the same hall on "The Women Martyr's of Russia" in the English language and that on Friday she is to speak in the same hall on the "Women Martyr's of Russia" in the Jewish language. I have arranged with Mr. Baxter, Police Stenographer to be present and also 12 Operatives of the American Protective League to appear among the audience at this meeting. I arrived at the Hall before the meeting started and talked to some of Emma Goldman's intimate friends, under cover, and a woman who was in charge of the literature informed me that Emma Goldman has postponed her meeting at Cleveland, Ohio and is to go direct from here to Rochester, N. Y. and from Rochester she is to go to New York City, thereby finishing her tour. I interviewed an Italian Anarchist, Louigi Tumazin, who stated he lives at 995 Cadillac Avenue, St. Clair Heights and I questioned him about <u>Augusto Massetti</u> , who was very active at one time at 555 1/2 Rivard Street in the Italian I. W. W. Headquarters and whose activities I watched for some time under instructions of Agent in Charge and who was supposed to have killed a Colonel, was advised by Tumazin that Massetti was at present in Bologna, Italy, where he is confined in an insane asylum. Tumazin said "they would not dare			
COPY OF THIS REPORT FURNISHED TO:			P. - 2

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 17 / [Antol] Rodau [Informant, Bureau of Investigation, Department of Justice]. — 3 p.; 27 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes his efforts to follow Goldman while she is in Detroit, including the surveillance of her meetings and her hotel. Rodau names several people present at Goldman's January 16, 1918, speech.

Re: Emma Goldman (Con'td) Informant Rodau for Wednesday, January 16th. 1918

put Massetti in jail" and told me that Nicholas DeGaetano, a pal of Massetti was at the meeting and that Alfredo Jervasi, also an I. W. W. and a friend of the above mentioned parties, ~~is~~ at present some where in Illinois and that he is supposed to have served a sentence lately in an Illinois prison for Violation of the Conscription Act.

Tumazin showed me some marks on his face saying he was working at the D. A. C. and there is another Italian cook there by the name of Albert who is a cursed patriot with whom he was engaged in a fight about patriotism.

The meeting began at 8:30 P. M. and Emma Goldman spoke along the same lines as the previous night, refer to my report of the January 15th., her speech being delivered in the English language. Sophie Markowitz and her husband, Spasoj; Mrs. Roth; Mr. Wagman, who was recently tried on conspiracy; Alexander Livinghouse, who was tried for violation of the conscription act; Morris Sugar, who was convicted for failure to register and also on conspiracy and Joe Labadie, who presided at the meeting, were present. The hall was very crowded ^{with} people of all nationalities, and after the meeting was over the Russians were singing the Russian revolutionist song "Helle Brothers and Comrades" also the "Marseillaise" in the Russian language. At 11:30 Emma Goldman left the hall with her intimate friends and entered a car, license number K - 4474, Michigan 1917- of Dort make. I trailed her, in company of Operative Zachendorf of the American Protective League and she stopped at ~~the~~ Bentlers restaurant and saloon, a known German hangout, where she had her supper and then she proceeded to the Statler Hotel, room 1002 and left a message with the telephone operator not to disturb her with any messages until 11:00 A. M. on the 17th. I interviewed Miss M. Dunbar, who is Chief Telephone Operator at the Statler from 11:00 P. M. until 7:00 A. M. who promised me that any messages showing

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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 17 /
[Antol] Rodau [Informant, Bureau of Investigation, Department of Justice]. —
3 p. ; 27 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes his efforts to follow Goldman while she is in Detroit, including the surveillance of her meetings and her hotel. Rodau names several people present at Goldman's January 16, 1918, speech.

Report Form No. 2

Re: ~~Emma Goldman~~ (Con'td) Informant Rodau for Wednesday, January 16, 1918

when she was going to leave or of any other importance to the Government, she will communicate with this office.

I shall endeavor to get a copy of the speech taken by the stenographer in the near future.

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The Emma Goldman Papers

[Letter] 1918 Jan. 17 [Washington, D.C. to] All Special Agents [Bureau of Investigation, Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice. — 3 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks his agents to cooperate with the express companies in preventing the distribution of the non-mailable publications listed.

Notes: Broken type; light copy; barely legible. Response to 880928040. For copy, see 880928051.

COPY FOR TICKLER. DATE
BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE
JAN 17 1918

January 17, 1918.

To All Special Agents:

Arrangements have been completed with representatives of all of the express companies doing business within the United States whereby they will undertake to refuse to accept for transportation not only any matter excluded by the Postmaster General from the mails under the Espionage Act, but any subsequent editions of such matters, regardless of the fact whether the particular edition offered for transportation contains unlawful matter. The publishers will no doubt make every effort to send their publications in disguised form.

With this in mind, it is desired that you give special attention to these matters and cooperate fully with the representatives of the express companies in attempting to ferret out those directly or indirectly connected with the distribution and transportation of such literature, and report the facts immediately to the representatives of the express companies.

The following papers have been excluded from the mails:

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Letter] 1918 Jan. 17 [Washington, D.C. to] All Special Agents [Bureau of Investigation, Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice. — 3 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks his agents to cooperate with the express companies in preventing the distribution of the non-mailable publications listed.

Notes: Broken type; light copy; barely legible. Response to 880928040. For copy, see 880928051.

COPY FOR TICKLER. DATE

BUREAU OF INVESTIGATION.
DEPARTMENT OF JUSTICE

"Solidarity," an I.W.W. publication, Chicago, Ill.

"Address to Railroad Workers," an I.W.W. publication, Chicago, Ill.

"The Daily Home," Industrial Worker, Home, Arizona.

Certain pamphlets printed in Russian and distributed by the I.W.W. at 1001 West Madison Street, Chicago, Ill.

"The International Socialist Review," Chicago, Ill.

"Defense News Bulletin," an I.W.W. publication, Chicago, Ill.

"I.W.W. Songs," Chicago, Ill.

"Worker's Thoughts," an I.W.W. publication, Chicago, Illinois.

"Social Revolution," St. Louis, Missouri.

"Il Proletario," Boston, Mass.

"Callers," I.W.W. publication, Chicago, Ill.

"El Rebelde," Los Angeles, Cal.

"Land and Liberty," New York City.

"Mother Earth," New York City.

"Mother Earth Bulletin," New York City.

"Industrialist," Detroit, Mich.

"I.W.W. Bulletin 187," Aberdeen, S. D.

"As Uj Tereadalon," Chicago, Ill.

"The Blast," New York City.

"The Social War," Chicago, Ill.

"Manifesto," Los Angeles, Cal.

"The Masses," New York City.

"La Parola Proletaria," Chicago, Ill.

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The Emma Goldman Papers

[Letter] 1918 Jan. 17 [Washington, D.C. to] All Special Agents [Bureau of Investigation, Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice. — 3 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks his agents to cooperate with the express companies in preventing the distribution of the non-mailable publications listed.

Notes: Broken type; light copy; barely legible. Response to 880928040. For copy, see 880928051.

COPY FOR TICKLER. DATE _____

BUREAU OF INVESTIGATION,
DEPARTMENT OF JUSTICE.

"L'Avvenire," New York City.

"Grenada Subversiva," Lynn, Mass.

"Obrazna," New York City.

Please give this matter special attention.

Very truly yours,

A. B. BIELASKI,

Chief.

_____, 1918.

Chief, Bureau of Investigation,

Department of Justice,

Washington, D. C.

Sir:

I hereby acknowledge receipt of your letter of January 17, 1918 in reference to matter excluded from the mails by the Postmaster General, under the Espionage Act.

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Memorandum in re: Mother Earth, 19]18 Jan. 17 / [Post Office Department].—
1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: The Post Office Department notes that France will not allow *Mother Earth* into the country.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

46647

Memorandum for Mother Earth, New York, N. Y.

File No:

THIS PAPER HAS BEEN PROHIBITED ENTRY INTO FRANCE AND
FRENCH POSSESSIONS BY THE FRENCH GOVERNMENT,
ACCORDING TO A LETTER FROM AMBASSADOR SHARP, PARIS,
TRANSMITTED THROUGH THE STATE DEPARTMENT, AND FILED
UNDER THE HEAD OF "FRENCH LIST OF BARRED PAPERS"
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The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 18 / [S.]
 T. Klawans [Agent, Bureau of Investigation, Department of Justice].— 2 p. ; 32 x 22 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 165.
 Summary: Agent Klawans lists the names and addresses of Goldman's correspondents on January 18, 1918,
 which he obtained from Edna Barker, a public stenographer who worked for Goldman.
 Notes: Follow-up report to 850205033.

REPORT FORM NO. 1

REPORT MADE BY: T. Klawans	PLACE WHERE MADE: Detroit, Mich	DATE WHEN MADE: 1-18-1918	PERIOD FOR WHICH MADE: 1-17-1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: Re: <u>Emma Goldman</u> Anarchist			
STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.: <u>At Detroit, Mich.</u> In company with Chief Randall of the American Protective League, I this day called upon Edna L. Barker, Public Stenographer, 624 Penobscot Bldg., who, earlier in the day had advised an Operative of the American Protective League that she had taken some dictation from <u>Emma Goldman</u> . Miss Barker advised us that Miss Goldman would give her further dictation this week and that Miss Goldman would deliver a lecture at Ann Arbor, Michigan, Saturday evening, another in Detroit Sunday evening and would leave that same evening for Rochester, N. Y. Miss Goldman dictated letters to Miss Barker today to the following persons: A personal communication to Miss Rose Cominsky, 41 Herman Street, Rochester, N. Y.; a letter with reference to the meeting and her lecture at Ann Arbor Saturday evening to Mrs. Xenia E. Burt, 1321 Volland Street, Ann Arbor, Mich; a letter discussing Anarchism to Gates W. Young, 2441 Portland Street, Minneapolis, Minn; a letter of the same nature to Herman Carter, 2316 East 89th. Street, Cleveland, Ohio; a letter containing a great deal of legal advice with reference to an appeal of some woman referred to as Louise in prison in Denver, Colo. to Mrs. Minnie Rimer, 7516 Third Ave. W. Seattle, Wash.; a personal letter to A. Frank Carnevale, 634 St. Peter Street, St. Paul, Minn. and a letter explaining Anarchy to Amos Jackson, Lock Box 257, Benton Harbor, Mich. In this letter amongst other things, she says "Am glad to know that Benton Harbor has a man who is courageous enough to declare himself an Anarchist." Will call upon Miss Barker again during the week for the purpose of ascertaining whether any further information <div style="text-align: right;">P - 5</div>			
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Emma Goldman (Con'td) S. T. Klawans for Thursday, January 17th.
1918.

she may secure 1th reference to Miss Goldman's correspondence.

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The Emma Goldman Papers

[Agent Report] In re: Lecture by Emma Goldman... "America and the Russian Revolution" - Seditious Utterances, Chicago, 1918 Jan. 18 / E.J. Bamberger, Operative, A[merican] Pro[ective] L[eague]. - 14 p.; 27 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bamberger describes Goldman's speech on America and the Russian Revolution, given in Chicago on January 11, 1918. Bamberger describes the literature sold, paraphrases Goldman's speech, and reports on the question-and-answer session.

Notes: Page thirteen missing.

REPORT FORM NO. 1

REPORT MADE BY: American Pro. League	PLACE WHERE MADE: Chicago, Ill.	DATE WHEN MADE: Jan. 18th, 1918	PERIOD FOR WHICH MADE: Jan. 11, 1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION In Re: Lecture by Emma Goldman subject: "America & the Russian Revolution". Seditious utterances			
STATEMENT OF OPERATIONS EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.			
<p><u>AT CHICAGO</u></p> <p>E. J. Bamberger, A. P. L. Operative #1576 reports as follows:</p> <p>This meeting was held at the Douglas Park Auditorium, Ogden Ave. & Kedzie Ave. Chicago, Illinois, January 11th, 1918 at 8 P. M. under the auspices of the Non-Partisan Radical League. An admission price of 30¢ which included 5¢ war tax was charged. The hall was nearly full and at 8:03 P. M. Mr. C. V. Cook, got up to speak and announced that anarchistic and socialistic literature would be sold before Miss Goldman arrived. The first book he offered for sale was "God and the State" by Michael Bakunin. Mr. Cook sold the book among the audience for 15¢. The Industrial Worker paper was also sold. Miss Sara Gruber was assisting him in selling the book. A petition was circulated and money collected for the defense of the I. W. W.'s. Mr. Cook said "The printed word is very important and without it, much is lost, but at all lectures literature is offered so that the spoken word is not lost, but if the United States Supreme Court found that the Draft Act is constitutional they will not find it difficult to convict Emma Goldman of conspiracy. Miss Goldman conducted her own trial and they were found guilty because they were anarchists." He then offered for sale Miss Goldman's book, "Anarchy on Trial" which was sold at 25¢ for a paper form and leather bound for 50¢. Miss Sara Gruber was also selling this book. Mr. Cook then told of the Christian Science movement and the Socialist movement and the Rationalist movement and said that these different movements had literature that the audience need to read Miss Goldman's works because she had been the largest</p>			
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Emma Goldman
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publisher of anarchist literature on this continent. He then told of a book "Anarchism and other Essays" which contained a photograph of her and a biographical sketch, which book was sold among the audience. "That all movements do not move unless there are individuals behind them. The principals of anarchism existed two thousand years ago but they must be taught. You can get as many copies as you wish with Emma Goldman's autograph on them." They were sold at 50¢ a copy and formerly were \$1.00. I bought one of these books and on the flyleaf is written "Last readings for two years. Emma Goldman, Chicago, 1918." The January number of the "Social War" and "A talk between two workers" were sold among the audience. Mr. Cook said "I must have made a poor talk on that last book, so few are sold. If you were asked what anarchism is, could you tell? I know what it is. Anarchism is the denial of violence toward any peaceable individual. It does not mean that you are going to let the tyrant walk on your neck. The first law of nature allows defense. Put it in your library, this book of essays." He then said that he would talk of the Bulletin published by Emma Goldman which is taking the place of "Mother Earth". It can put in an envelope and mailed for 3¢ and the mailman cannot look into the envelope, so it will be received. That the October, November and December issues of the Bulletin are for sale this evening at the Meeting. That they will throw in two of her lectures with each Bulletin tonight. He spoke of the lecture delivered by Emma Goldman in the Civic Auditorium at the Panama Exposition at San Francisco, Cal. That they gave to Miss Goldman the right to give the lecture on "Atheism" She delivered it in 29½ minutes but the hall was filled with many that were religious and irreligious.

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and their religious were astounded to see the religious applaud Miss Goldman. The lecture was entitled "The Philosophy of Atheism and the Failure of Christianity" This was sold for 10¢. The Defense News Bulletin was also sold. Mr. Cook said "It may be that some of you would like to have something which is a short account of anarchism. The New York Times at one time made up their mind that they wanted such a short article. They paid Miss Goldman \$150.00 for this article. Mr. Cook read from the book. It is entitled "Anarchism, what it really stands for". Miss Sara Gruber was selling this book at the meeting for 10¢. Mr. Cook asked the audience to cease smoking as it would interfere with Miss Goldman's speaking. He said he would call attention to another book "Prison Memoirs of an Anarchist" by Alexander Berkman. That he read this book and when he did so, he thought he was in jail. It has been acknowledged by the world as a classic that it has been sold at \$1.50 but tonight you can get it for \$1.00. At 8:45 P. M. Emma Goldman and Wm. Nathanson took the platform. A stenographer was on the platform at this time who I know and I believe was reporting this meeting for Miss Goldman. The hall was about two thirds filled. Mr. Nathanson called the audience to order. Mr. Nathanson said "I suppose you all know the subject tonight is "America and the Russian Revolution" that history has recorded many revolutions but there is one that has attracted attention. It was the French revolution, because it was the signal to pronounce religious and political freedom to the whole world. The Russian revolution has not followed the steps of the French Revolution and it would not be new for the world. The moment the Russian revolution took place, the Russians said to the whole world

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that the world has not seen political freedom. The freedom we have seen means only freedom to a certain class to exploit another class and so the Russian people said that after the Czar has fallen that there should be a political and social freedom and it will establish a new order not only for Russia but for the whole world. "Therefore," Mr. Nathanson said "It is necessary for everyone to get a true interpretation of the Russian Revolution." He said, "I have the pleasure to introduce the world's greatest interpreter of revolutions and the Russian revolution, Miss Emma Goldman. Miss Goldman spoke at first of her acquaintance with Madame Breshkovskaya the mother of the Russian revolution who lived with Miss Goldman when she was in this country and Emma Goldman asked her often "How did you retain your revolutionary spirit after having lived for twenty five years in the Siberian prisons and dungeons?" and she would ask Miss Goldman "How could you retain your revolutionary spirit and live so many years in the Siberia of America?" That in Russia there is new light that instills new hope and we will live to see our dreams realized. We in America must draw inspiration either from ourselves or look across the Ocean to Russia. For many years we did not see the spirit of revolution. America is the child of revolution. Thanks to the founders of our republic we gained whatever liberty we had. The Jeffersons and the Henrys were the fathers of the revolution in the United States and if they were in England they would be so considered. The revolution

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of America must be classed among the great revolutions of the world and the document The Declaration of Independence so little known to the average person is the great document of the revolutionary spirit in the United States. For a time, this spirit seemed to be extinguished until again afterwards it arose in deliberators group. Those who spoke for the Black man those who faced the mobs and prejudice. They insisted that they could not be a freedom along with slavery. They revived the spirit of '76. Garrison and the others brought back the revolutionary spirit. It was them that brought back the revolutionary spirit in this great United States. It was John Brown who was the forerunner and so for awhile it seemed that there would be liberty in United States and afterwards again it seemed that all this spirit was dead. And so it is not surprising that this country of revolutionary past should stand aghast at the Russian revolution. I don't know how much you have read of those who were sent to Russia to bring back the story of the Russian revolution. You could not get a true idea from our daily papers. They are keyed to the mental caliber of those who are called educators. The American press represents the poison, it represents the greatest evil in the United States. It represents a greater evil than the Government, and the law. For the individual depends on the papers for his ideas. He thrives on that from cradle to grave, so he never knows the truth or hears the truth. The newspapers have sent men and women into Europe to study the

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great movements. Those that were sent were not men and women connected with the uplifting of the masses but men and women of the capitalistic class. Those with Bushwaza ideas who will color their articles to suit their readers. The reporters of the different papers and magazines represent a ghastly picture of conditions in Russia. Miss Goldman then called attention to a series of articles that appear in the New York papers written by a woman ^{by name of Reta Child Dorr} who claims to be emancipated and if you have taken the trouble to read these articles you will get the same false ideas of the Russian revolution that you get when you read some of the French writers who wrote of the French revolution. This woman wrote that the Russians have disposed of the Czar and are a wild mob that need the United States to help them in building Russia up. Such men as Roosevelt or Mark Hanna Miss Goldman said. This same writer criticizes Kerensky. She is one of the many in the scribbling profession. She found fault with him because he would not restore the death penalty. She wrote that the revolutionists in Russia have established the eight hour day in some parts, a six hour day in other places and two hour day in some other places and she asks what will become of the masters if the workers only work several hours a day. She tells of the English capitalists who came to Russia and the workers now refuse to be exploited by them and she regrets that the workers do not work in shifts and are not eating their dinners at lunch counters in great haste as the workers in the United States do and take but fifteen minutes for lunch and she regrets that now in Russia the factories are closed for two hours.

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and the workers talk things over as the masters used to do. The workers in Russia now are not doing as the workers are doing in the great land of freedom, The U. S. A. She regrets that the exiles were allowed to return to Russia with all the liberty that America gives. She told of an exile who returned to Russia. Don't create such a republic as the United States for no Liberty exists there. This writer said that all those exiles that returned from United States to Russia should be placed in a ship and later dumped in the sea or placed in a ship and sent to the South Seas. Just like the Czar and the Russians and that the Czar and his party did not claim any other rights than this right. What is to become of the un-American American, Miss Goldman asked. But this writer this lady, claims to be a daughter of the American revolution, fails to see the writing on the wall. This writer tells of Mr. Root who had to stay indoors most of the time while he was in Russia recently. Perhaps he was told that the Russians had another kind of undertaker than they have in the United States. Root was sent by the United States Government to Russia and just imagine him representing the working class of the United States. It is marvelous how the Russians get along without law and she answers that the reason is because of the fact that they lived under the law so long that they decided they could get along better without the law. Those that went back to Russia from the United States and told the Russians of the poverty and suffering of the working class in the United States told nothing but the truth and they did not tell what exists in the United States. The soldiers after the Revolution took place in Russia, blew smoke in the face of the Czar. They turned off the gas on the Czar and he had no hot

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water. It did not occur to that correspondent and writer that if a Czar had sent the prisoners to Tobolsk he would have choked them to death and tortured them and that if the Czar had one thousand lives he could not pay for the lives he took and this writer claims to be a daughter of the American Revolution. Miss Goldman said "It only means that although we are constantly told that freedom prevails in the United States and that this is the home of the brave and the free, that the Bushwaza Press only want a Czar in Washington to rule the foreigners in the United States." Recently there was reported a revolt at Kronstadt and it was only Charles Edward Russell that wrote a true article of the uprising. The men who were taken into the Army, the men who were at the mercy of the officers, can you be surprised that these men, these soldiers remembering how they were spit in the face by the officers it is not surprising that they killed some of the officers. Miss Goldman quoted from Lincoln Steffens when he said "The Russian soldiers knew the kind of officers they killed and they never laid a hand on a kind officer". The American who reads the average article in the newspaper gets the idea that the Czar was killed too soon before the people were ready for that. The Russian revolution was the most peaceful of any revolution in the history of the world. It was like some great dream and it stands out among all revolutions in the past. Just as they got rid of the Czar they would get rid of a Mark Hanna and others of his type and they would have gotten rid of Government. They want to get rid of Government in a friendly peaceful manner

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Miss Goldman then told of how the Russian workers took away a house from one of the masters because he said he could not keep the house on \$5,000.00 a year that the Russian workers said that was all he was entitled to after they took possession of his business that it is true that the American Government recognized the Bolsheviki after the Russian revolution, that capitalism can commit more crimes and outrage more people under a liberal government than under a Czar. They were recognized because they were the Red Specter that stood out to the world. Miss Goldman said that the pioneers of the revolution to come in the United States lie buried in Waldheim Cemetery. They are the anarchists who were hanged on November 11, 1887. Among them were Parsons and Speis. The Chicago anarchists are the pioneers of the revolution that will take place in the United States just as sure as the revolution is now taking place in Russia today. Just so do we have those who are the forerunners of the revolution to come in the United States. Those who were killed and imprisoned, the Haymarket Riot victims and the I. W. W.'s now awaiting trial in Chicago are the forerunners of the revolution to come in the United States and just as these writers did not see the revolution in Russia neither do they see what is to come in the United States. What you read in the papers of the I. W. W.'s. 166 were arrested. All you know is that these I. W. W. these anarchists are foreigners and all you need to do is get them out of the country and then go on eating three square meals a day and producing. Many of us foreigners would be glad if you sent us back to Russia, but

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What are you going to do with the Americans who think just as the Russian revolutionists did? It is not improbable that the revolution in Russia will affect the United States. May we have in the United States, not men like Mark Hanna and Theodore Roosevelt who get fat on the sweat of the oppressed worker but men imbued with the spirit of the Russian revolution.

"It is up to us Russians to bring to the American people the spirit of the Russian revolution. The great flame that has arisen in Russia has inflamed us and we will work until the American people will wake up and then we will have a real revolution in the United States."

This concluded Miss Goldman's speech.

At 9:45 P. M. William Mathanson got up and read from an article in the Chicago Tribune about Emma Goldman. Someone asked "Why should we pay a war tax when we are against the war?" But we thought this is so because we are opposed to war. With the consent of those in prison we are aiding others in prison than I. W. W.'s. We are buying food for those in prison, so you can see my friends how much truth there is in newspaper articles. He said that he would make several announcements in regards the remaining lectures. That tomorrow Miss Goldman would speak on the "Women Martyrs of Russia" at the East End Hall, Clark & Erie Streets, Chicago and next Sunday at the West Side Auditorium on "The Spiritual Awakening of Russia" and she will also answer the question "Will there be a spiritual awakening in the United States". The clipping that Mr. Mathanson read mentioned the Emma Goldman Lectures and war tax on the tickets and that Detective Sergeant Mills

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and McDonaghue were at the meetings. L. J. Delson of the People's Council was present at this meeting.

Questions and answers were not in order.

Mr. Cook asked if those who are attempting to oppose the revolution in the United States have any such men as they have in Russia.

Mr. Mathanson said that money was collected at the Goldman meetings which was used for the I. W. W.'s and other political prisoners. That they gave \$130.00 to help the prisoners in Milwaukee. They were convicted to show that the Government is being kept busy and that the police are doing something. Only two of those prisoners are anarchists and I do not think that any of the other ten are socialists. The \$130.00 was given to help all of the twelve prisoners. Mr. Mathanson then told of the Mask Ball to be held at the Hebrew Institute, Saturday evening next, and of the Banquet to the subscribers of Mother Earth to be held Sunday evening next. He said that only those whose names are on the records as subscribers to Mother Earth are given tickets. Miss Goldman said "I want to meet the workers and subscribers at this Banquet and we have only room for 150 persons but she would have liked to have a larger place for the banquet so that Detective Sergeants Mills and ^{McDonaghue} ~~Killigan~~ of the bum squad could have been invited. That in time detectives will learn something and then they will not be detectives any longer that is when they begin to think. They will not arrange a plot at this banquet. Miss Goldman was asked "Have we writers in America like Tolster or Gorki? She answered "Yes, we have

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some in America. I want to called your attention Miss Goldman said, to a great forerunner of the revolution that is to come in America. Voltaireine DeClaire. She is the greatest forerunner of the American rebellion. He martyrdom was not in prison. We have collected some of her works to let you know that there was a forerunner of the revolution in America. She told of another great forerunner of the rebellion in the future in the United States, although not an American he is a martyr to the cause—Alexander Berkman. He is a great contributor to the physiological. Mr. Berkman told of his prison term of fourteen years. She called attention to "The Social War" published in Chicago, which was sold at 5¢ a copy and also to the Mother Earth Bulletin. She also spoke of two books by Nietzsche entitled Between good and evil and Zarathustra which was sold at the meeting at 60¢. That Nietzsche has been held responsible for the present war. That they were selling a new edition of "Anarchism and other essays" with her greeting on the flyleaf in her handwriting "Last greeting for two years." The books were then sold among the audience, which she had just described. Miss Goldman then told of the latest judicial outrage in Milwaukee where ten men and one woman were sentenced to 25 years in prison. Miss Goldman was asked "Will not the cutting down of profits interfere with industry?" She answered "If the incentive of the people is profit, if that is the case the people might not produce anything. She was ⁴³ asked "Whether the President of the Russian Railroad Men's Union

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REPORT FORM NO. 1

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regarding the Soldiers & Workers Council as a usurping power, has just as much truth as Mr. Gompers statement. The very idea that he does not go out among the Russians workers and goes to Washington is evidence that he is not the spokesman of the Russian worker. Miss Goldman was asked whether Eugene Debs was one of the forerunners of the Revolution to come in United States and she answered "Most decidedly he is one of the forerunners of the economic revolution to come in the United States. He sowed the seed of the revolution to come in the United States. She then told of the Ukrainians. They are the property owners in a part of Russia who are against the Bolsheviks. What about the Government in Russia after the revolution? Said she did not know for sure what kind of a Government it would be but she said it would be like the American Government that they will adopt. The Russians are not so ignorant that they need such a Government as we are unfortunate to have. To tell them how to manage. Miss Goldman was asked "Would it not be good if the Bolsheviks would send some of their people to the United States?" She said "Yes, but if they get here they could not think out loud and let's hope that some of us can get back there. In America for the present we must do a lot of talking while the Russians are acting. She was asked "Who are the Bolsheviks?" The anarchists, socialists and Industrial Workers, Bunds, etc. Miss Goldman said that the Bolsheviks cannot be helped by the governing class, for until the governing class has

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The Emma Goldman Papers

[Agent Report] In re: Lecture by Emma Goldman... "America and the Russian Revolution" - Seditious Utterances, Chicago, 1918 Jan. 18 / E.J. Bamberger, Operative, A[merican] Pro[ective] L[eague]. - 14 p. ; 27 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bamberger describes Goldman's speech on America and the Russian Revolution, given in Chicago on January 11, 1918. Bamberger describes the literature sold, paraphrases Goldman's speech, and reports on the question-and-answer session.

Notes: Page thirteen missing.

-15-

it should not aid other classes, that before the United States should try and make the world safe for democracy it should make America safe for democracy.

This meeting was adjourned at 10:40 P. M.

45

BEST COPY AVAILABLE

378

The Emma Goldman Papers

[Report on] I.W.W. Anarchists[—Pacific Coast] Los Angeles, 1918 Jan. 18 / [Agents 101 and 102, Military Intelligence Division, War Department]. — 2 p. ; 28 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agents 101 and 102 report that anarchists and I.W.W. members in Los Angeles are awaiting instructions from Goldman.

Los Angeles, Cal., January 18, 1918,

SUBJECT: I. W. W. Anarchists,

Location: Los Angeles, Calif.,

We have had several meetings with Mr. and Mrs. Porry McCullough since our return from San Diego and have made arrangements to meet several of the well known radicals on next Monday night at a dinner to be given by them.

Among these will be a woman named Marie Sata who is now living with a man named George Sipton, whose place of business is 2320 South Vermont Street, Los Angeles. This woman has been prominent in the anarchist movement for many years, was at one time the mistress of the dynamiter Schmidt, the convicted partner of Caplan in the Los Angeles Times dynamiting outrage. This woman is also the subject of a book called the "Anarchist Woman" written by the brother of Norman Hopgood, the author.

She has the reputation among the radicals of having lived the most terrible life in every way that is credited to any one and with it all she has been and is now looked upon as a leader and adviser of the very worst element of the anarchist organization, the element that wants to kill and destroy. She is now identified with this same element here but in a quiet way and little is seen of her among the radical leaders of our acquaintance. She entertained Sadakichi Hartmann on his recent visit here, and had him at her house a great part of the time.

Another woman we will meet at this dinner and probably one of the most important radicals in this community is Hazel McMean, whose present husband is named Siegel. Both this woman and her husband are employed at Culver City, near Los Angeles, as scenario writers for a moving picture producing Company. Hazel McMean is reputed to be the leading radical of San Francisco. She at one time was the mistress of a wealthy man, whose name we will learn. He is still on the Pacific Coast.

She was also the mistress of a noted anarchist named Perry and the close friend and associate of a noted English anarchist named Owen. She is an unusually bright woman and a clever writer, and the associate of the most intellectual followers of the anarchist movement. Her house has been for years, and is now a meeting place for anarchists from all over the country.

This woman has been in Los Angeles only a few months. She lived in San Francisco for years, and went from there to Santa Barbara in the summer or Fall of 1917. While living in Santa Barbara the Federal Agents raided her place in search of evidence as to anarchist and I. W. W. activities but failed to get anything of importance. She is reported to be in constant touch with

379

The Emma Goldman Papers

[Report on] I.W.W. Anarchists[—Pacific Coast] Los Angeles, 1918 Jan. 18 / [Agents 101 and 102, Military Intelligence Division, War Department]. — 2 p. ; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Agents 101 and 102 report that anarchists and I.W.W. members in Los Angeles are awaiting instructions from Goldman.

OFFICE CHIEF OF STAFF

-2-,

January 18, 1918,

SUBJECT: I. W. W. Anarchists,

radical leaders who visit this community but it is not likely that she would have any written evidence at her place of residence.

The radicals here are bemoaning the fact that Emma Goldman and Alexander Berkman will have to serve their time in the Federal penitentiary.

They are now awaiting instructions from Emma Goldman which they expect her to give them before she is locked up. They still believe and in fact are growing more firm in their belief every day that these wars will result in a world revolution that will overturn all existing governments, and the newspapers throughout the country are encouraging such belief by what they are printing.

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The Emma Goldman Papers

[Memorandum] 1918 Jan. 18, New York [to] W.L. Campbell [Military Intelligence Division, War Department, New York] / J[ohn] H. Brady, Inspector [Military Intelligence Division, War Department].— 1 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Brady explains the surveillance of Lilly Winner and Louis Weitzenkorn of the Guillotine Club.

Notes: Enclosed with 810402060.

New York, January 18, 1918.

10110-524
29
WAR DEPARTMENT

FROM: Inspector J. H. Brady,
TO: Lieutenant W. L. Campbell,
SUBJECT: Emma Goldman and Others.

As per your order of yesterday I co-operated with the Naval Intelligence on this case; gave them an extra copy of all the reports on file that we could spare.

Today I located Miss. Winner and Louis Weitzenkorn at No. 51 West 35th Street, where I find they have half of the third floor. They have a lease for the same from Mr. Ed. Meyers, who is the proprietor of the house. Mr. Meyers is an ex-English soldier and was wounded in the trenches. He is also a friend of Major Edmondson of a British Remount Officer, now stationed at the New Jersey stock yards. Major Edmondson is now stopping at the above address.

Miss. Winner and Weitzenkorn are living as man and wife.

Yesterday afternoon a man by name of Williams came to their apartment after doing some travelling and he was very sick with a bad cold and quite feverish. They attended to his wants through the day and night and he also has hired a hall bedroom in the same house. He is a socialist writer.

After March 1st, Miss. Winner has arranged to hire the top floor for a meeting room for her club. I have them now covered and also their mail at that address. We can hire the front parlour of this house for \$30.00 per month and we can run dictographs through the house.

The investigator from the Naval Intelligence will go to the house every morning at 9 AM, to go over the mail that has been captured by Mr. Meyers, and he will give us a duplicate copy.

Respectfully submitted,

P. S.

I find from the Post Office Inspector that Jennie Bleistein, of 1527 Morris Ave., Bronx, has been getting mail for some time at No. 23 Christopher Street.

The Emma Goldman Papers

[Letter] 1918 Jan. 18, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 36 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger informs Davis of his intent to move for an extension of time to petition for a rehearing before the Supreme Court.

Notes: For enclosures, see 810113330, and 810113332 through 810113335.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

HARRY WEINBERGER
COUNSELOR AT LAW
201 BROADWAY, NEW YORK
TELEPHONE CONNECTION.

January 18th, 1918

Hon. John W. Davis,
Solicitor General,
Department of Justice,
Washington, D.C.

In re: Goldman-Berkman v. United States

Dear Sir:-

I enclose herewith replying affidavit to
your motion returnable on Monday, January 21st, and also
notice of motion made by me returnable at the same time.

I intend to take the twelve o'clock mid-night train
from New York on Sunday night, but if my train is delayed
as it was last time, I would respectfully ask that you sub-
mit my affidavit in opposition ^{as my motion} and inform the Court that
as soon as I arrive I will file my original notice of
motion and affidavit in opposition to your motion.

Respectfully yours,

Harry Weinberger

Enc.

186233-13-97
JAN 19 1918
RECEIVED
SOLICITOR GENERAL

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Affidavit in Opposition to Motion [to issue mandate] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 34 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger opposes the government's motion to issue the mandate in Goldman and Berkman's Supreme Court appeal.

Notes: Enclosed with 810113331.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

Royal Stationery Co., Inc., Printers and Law Blank Publishers 129-133 Fulton Street New York

Fol. 1

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA.

-----X
ALEXANDER BERKMAN and EMMA GOLDMAN,
Plaintiffs-in-Error,

- against -

THE UNITED STATES OF AMERICA,
Defendant-in-Error.
-----X

STATE OF NEW YORK:
CITY & COUNTY OF NEW YORK: SS:

" 2

HARRY WEINBERGER, being duly sworn, deposes
and says:

I am the attorney for the plaintiffs-in-
error in the above entitled action.

I respectfully ask that the motion for the
issuance of the mandate forthwith in this case be denied
upon the grounds fully stated in my motion made re-
turnable at this time; and there is no necessity for
the immediate issuance of this mandate.

Sworn to before me this
18th day of January, 1918.

Harry Weinberger
Hubert C. Gray

" 3

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The Emma Goldman Papers

810113330

Goldman [&] Berkman [v.] United States: Affidavit in Opposition to Motion [to issue mandate] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger opposes the government's motion to issue the mandate in Goldman and Berkman's Supreme Court appeal.

Notes: Enclosed with 810113331.

NOTICE OF ENTRY

Sir:—

Please take notice that the within is a true copy of a
this day duly filed and entered in the office of the Clerk of the

Date, N. Y., 191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To Esq.

ATTORNEY FOR

NOTICE OF SETTLEMENT.

Sir:—

Please take notice that an order of which the within is a true copy, will be presented for settlement and entry herein to Mr. Justice

at of

this Court at

in the Borough of

in the City of New York,

on the day of 191

at o'clock, in the forenoon or as soon

thereafter as Counsel can be heard.

Dated, N. Y., 191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To Esq.

ATTORNEY FOR

CLERK'S INDEX NO.

YEAR

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA.

ALEXANDER BERKMAN and EMMA
GOLDMAN,

Plaintiff S-

in-Error,

against

THE UNITED STATES OF AMERICA

Defendant

in-Error.

COPY

AFFIDAVIT IN OPPOSITION
TO MOTION.

HARRY WEINBERGER

ATTORNEY FOR plffs. -in-Error,

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

TO Esq.

ATTORNEY FOR

Due and timely service of a copy of the

within

is, hereby admitted.

Dated, N. Y., 191

Attorney for

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

in the
served the foregoingin which
that he knew the person
and described in

to and leaving personally with said

so served as aforesaid

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Affidavit in Opposition to Motion [to issue mandate] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 27 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Broken type; light copy. Copy of 810113330.

Vol. 1

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA.

-----X
ALEXANDER BERKMAN and EMMA GOLDMAN,

Plaintiffs-in-Error,

- against -

THE UNITED STATES OF AMERICA,

Defendant-in-Error.

No. 702

-----X
STATE OF NEW YORK:
CITY & COUNTY OF NEW YORK: SS:

" 2

HARRY WEINBERGER, being duly sworn, deposes
and says:

I am the attorney for the plaintiffs-in-
error in the above entitled action.

I respectfully ask that the motion for the
issuance of the mandate forthwith in this case be denied
upon the grounds fully stated in my motion made re-
turnable at this time; and there is no necessity for
the immediate issuance of this mandate.

Sworn to before me this
18th day of January, 1918.

Harry Weinberger
Harriet Okey

" 3

Notary Public for the County
of New York
My Comm. Expires Dec. 31, 1919
Notary Public for the County
of New York
My Comm. Expires Dec. 31, 1919
Notary Public for the County
of New York
My Comm. Expires Dec. 31, 1919

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385

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Affidavit in Opposition to Motion [to issue
mandate] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 27 × 17 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 267.
Notes: Broken type; light copy. Copy of 810113330.

NOTICE OF ENTRY

Sir:—

Please take notice that the within is
a true copy of a
this day duly filed and entered in the office of
the Clerk of the

Dated, N. Y., 191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To Esq.

ATTORNEY FOR

NOTICE OF SETTLEMENT.

Sir:—

Please take notice that an order of
the within is a true copy, will be pre-
sented for settlement and entry herein to
Mr. Justice

at of
this Court at

in the Borough of

in the City of New York,

on the day of 191

at o'clock, in the forenoon or as soon

thereafter as Counsel can be heard.

Dated, N. Y., 191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To Esq.

ATTORNEY FOR

CLERK'S INDEX NO.

YEAR

IN THE SUPREME COURT OF THE

UNITED STATES OF AMERICA.

ALEXANDER BARKMAN and
EMMA GOLDMAN,

Plaintiffs—
in-Error.

against

THE UNITED STATES OF AMERICA,

Defendant —
in-Error.

ORIGINAL

AFFIDAVIT IN OPPOSITION TO
MOTION.

HARRY WEINBERGER

ATTORNEY FOR Plaintiffs—in-Error.

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To Esq.

ATTORNEY FOR

Due and timely service of a copy of the

within

is, hereby admitted.

Dated, N. Y., 191

Attorney for

BEST COPY AVAILABLE

386

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Affidavit and Notice of Motion [to extend mandate, 1918 Jan. 18 (cover page)] / Harry Weinberger. — 1 p. ; 22 × 25 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Notes: For enclosures, see 810113332, 810113333, and 810113334. For copy, see 810206015.

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

NOTICE OF ENTRY

Sir:—

Please take notice that the within is a true copy of a..... this day duly filed and entered in the office of the Clerk of the.....

Dated, N. Y.,.....191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR.....

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To..... Esq.

ATTORNEY FOR.....

NOTICE OF SETTLEMENT.

Sir:—

Please take notice that an order of which the within is a true copy, will be presented for settlement and entry herein to Mr. Justice.....

at..... of

this Court at.....

.....in the Borough of

.....in the City of New York,

on the.....day of.....191

at.....o'clock, in the forenoon or as soon

thereafter as Counsel can be heard.

Dated, N. Y.,.....191

Yours, &c.,

HARRY WEINBERGER

ATTORNEY FOR.....

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

To..... Esq.

ATTORNEY FOR.....

CLERK'S INDEX No.

YEAR

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA.

ALEXANDER BERKMAN and EMMA
GOLDMAN,

Plaintiff s-
in-Error,

against

THE UNITED STATES OF AMERICA,

Defendant -
in-Error.

COPY

AFFIDAVIT AND NOTICE OF
MOTION.

HARRY WEINBERGER

ATTORNEY FOR Pliffs.-in-Error,

Office and Post Office Address

261 BROADWAY

Borough of Manhattan New York City

TO JOHN W. DAVIS, Esq.

Solicitor General,

ATTORNEY FOR Dept. of Justice,
Washington, D.C.

Due and timely service of a copy of the

within is, hereby admitted.

Dated, N. Y.,.....191

Attorney for.....

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Affidavit and Notice of Motion [to extend mandate, 1918 Jan. 18 (cover page)] / Harry Weinberger. — 1 p. ; 18 × 15 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 267.
 Notes: For enclosures, see 810206036, 810206039, and 810206040. Copy of 810113335.

<p style="text-align: center;">NOTICE OF ENTRY</p> <p>Sir:—</p> <p>Please take notice that the within is a true copy of a _____ this day duly filed and entered in the office of the Clerk of the _____</p> <p>Dated, N. Y., _____ 191</p> <p style="text-align: right;">Yours, ac.,</p> <p style="text-align: center;">HARRY WEINBERGER</p> <p>ATTORNEY FOR _____ Office and Post Office Address 261 BROADWAY</p> <p>Borough of Manhattan New York City</p> <p>To _____ Esq.</p> <p>ATTORNEY FOR _____</p> <p style="text-align: center;">NOTICE OF SETTLEMENT.</p> <p>Sir:—</p> <p>Please take notice that an order of _____ the within is a true copy, will be presented for settlement and entry herein to Mr. Justice _____ at _____ of this Court at _____</p> <p>_____ in the Borough of _____ in the City of New York, on the _____ day of _____ 191 at _____ o'clock, in the forenoon or as soon thereafter as Counsel can be heard.</p> <p>Dated, N. Y., _____ 191</p> <p style="text-align: right;">Yours, &c.,</p> <p style="text-align: center;">HARRY WEINBERGER</p> <p>ATTORNEY FOR _____ Office and Post Office Address 261 BROADWAY</p> <p>Borough of Manhattan New York City</p> <p>To _____ Esq.</p> <p>ATTORNEY FOR _____</p>	<p style="text-align: center;">CLERK'S INDEX NO. YEAR</p> <p>IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.</p> <p>ALEXANDER BERGMAN and EMMA GOLDMAN,</p> <p style="text-align: right;">Plaintiffs— in-Error,</p> <p style="text-align: center;">against</p> <p>THE UNITED STATES OF AMERICA,</p> <p style="text-align: right;">Defendant — in-Error.</p> <p style="text-align: center;">ORIGINAL</p> <p style="text-align: center;">AFFIDAVIT AND NOTICE OF MOTION.</p> <p style="text-align: center;">HARRY WEINBERGER</p> <p>ATTORNEY FOR _____ Office and Post Office Address 261 BROADWAY</p> <p>Borough of Manhattan New York City</p> <p>To _____ Esq.</p> <p>ATTORNEY FOR _____</p> <p>Due and timely service of a copy of the within _____ is, hereby admitted.</p> <p>Dated, N. Y., _____ 191</p> <p>Attorney for _____</p>
---	--

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Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger notifies the solicitor general that he intends to ask the Supreme Court to extend its mandate in Goldman and Berkman's appeal.

Notes: Enclosed with 810113331, 810113333, 810113334, 810113335, and 810206038. For signed copy, see 810206040.

To: JOHN W. DAVIS, ESQ.,
Solicitor General,
Department of Justice,
Washington,
District of Columbia.

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The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: [Notice of motion to extend mandate] 1918
 Jan. 18 / Harry Weinberger. — 1 p. ; 25 × 18 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 267.
 Notes: Copy of 810113332.

Fol. 1

IN THE SUPREME COURT OF THE
 UNITED STATES OF AMERICA.

-----x
 ALEXANDER BERKMAN and EMMA
 GOLDMAN,

Plaintiffs-in-Error,

- against -

THE UNITED STATES OF AMERICA,

Defendant-in-Error.
 -----x

No. 702

S I R :

" 2 P L E A S E T A K E N O T I C E, that at a
 Stated Term of the Supreme Court, appointed to be held
 at the Capitol, in the City of Washington, District of
 Columbia, on the 21st day of January, 1918, at 12 o'clock
 noon on said day or as soon thereafter as counsel can be
 heard, application will be made to said Court for an
 order enlarging the time for the issuance of the mandate
 of said Court to the United States District Court for the
 Southern District of New York, affirming the judgment of
 conviction in this case, and that the said mandate shall
 not issue within thirty days from the 21st day of January,
 1918, and for such other and further relief as may be
 just and proper.

" 3

Dated, New York, January 18th, 1918.

Yours, etc.,

Harry Weinberger
 HARRY WEINBERGER,
 Attorney for Pltiffs.-in-Error,
 Office & P.O. Address,
 261 Broadway,
 Borough of Manhattan,
 City of New York.

To: JOHN W. DAVIS, ESQ.,
 Solicitor General,
 Department of Justice,
 Washington,
 District of Columbia.

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: [Affidavit in support of motion for rehearing] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger asks the Supreme Court to extend its mandate to allow him to petition for a rehearing in Goldman and Berkman's appeal.

Notes: For enclosure, see 810113334. Enclosed with 810113331, 810113332, 810113334, 810113335, and 810206038. For signed copy, see 810206039.

Fol. 1

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA.

ALEXANDER BERKMAN and EMMA
GOLDMAN,

Plaintiffs-in-Error,

- against -

THE UNITED STATES OF AMERICA,

Defendant-in-Error.

STATE OF NEW YORK:

CITY & COUNTY OF NEW YORK: SS:

HARRY WEINBERGER, being duly sworn, de-

poses and says:

I am the attorney for the plaintiffs-in-error.

The conviction in this case was affirmed on the 14th day of January, 1918, and upon receiving from the Clerk of the Court a telegram as follows:

"Goldman and Berkman against United States affirmed. Will send opinion when printed."

I wired a "rush" telegram as follows:

"Desire immediately typewritten opinion Goldman-Berkman against United States for purposes of motion for reargument."

and received, on the 15th day of January, 1918, the following telegram:

"Will send opinion Goldman-Berkman cases soon as printed. Cannot furnish typewritten copies."

Under Rule 39 of the Supreme Court,

"mandates issue as of course after the expiration of thirty days from the day that judgment or decree is entered unless the time is enlarged by order of the Court."

I have received by mail, to-day, January

-1-

BEST COPY AVAILABLE

391

The Emma Goldman Papers

810113333

Goldman [&] Berkman [v.] United States: [Affidavit in support of motion for rehearing] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger asks the Supreme Court to extend its mandate to allow him to petition for a rehearing in Goldman and Berkman's appeal.

Notes: For enclosure, see 810113334. Enclosed with 810113331, 810113332, 810113334, 810113335, and 810206038. For signed copy, see 810206039.

Fol. 4 18th, at about 12 o'clock noon, a copy of the opinion of the Court in this case/

From a reading of the opinion, I am strongly desirous of presenting a petition for a rehearing on the questions other than the Constitutionality of the Draft Act. The petition for a rehearing will have to be printed as required by Rule 30 of the Supreme Court, and said petition must briefly and distinctly state my grounds and must be accompanied by a certificate to be made by me, which I propose to make. All printing plants in the City of New York are closed by order of the United States Fuel Commissioner. I attach herewith a letter of my printer, The Hecla Press, to that effect.

Inasmuch as the plaintiffs-in-error are now both out on bail in the sum of \$25,000. each, and there are no circumstances about the cases, necessitating other than the usual proceedings, your deponent feels that counsel for the plaintiffs-in-error should have an opportunity of making a petition for a rehearing and any other steps he may deem advisable.

A copy of this affidavit and notice of motion has this 18th day of January, 1918, been mailed to the Solicitor General at Washington, D.C.

" 6 W H E R E F O R E, I respectfully ask that the time for the issuance of the mandate be enlarged and that the said mandate be not issued before the 21st day of February, 1918.

Sworn to before me this

18th day of January, 1918.

Herbert Cohen

Harry Weinberger

The Emma Goldman Papers

810206039

Goldman [&] Berkman [v.] United States: [Affidavit in support of motion for rehearing] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Broken type; light copy. Copy of 810113333.

Fol. 1

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA.

-----X
ALEXANDER BENJAMIN and IRMA
GOLDMAN,

Plaintiffs-in-Error,

- against -

THE UNITED STATES OF AMERICA,

Defendant-in-Error.
-----X

STATE OF NEW YORK:
CITY & COUNTY OF NEW YORK: SS:

HARRY WEINBERGER, being duly sworn, de-
poses and says:

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"mandates issue as of course after the expiration of
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BEST COPY AVAILABLE

393

The Emma Goldman Papers

810206039

Goldman [&] Berkman [v.] United States: [Affidavit in support of motion for rehearing] 1918 Jan. 18 / Harry Weinberger. — 2 p. ; 28 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Broken type; light copy. Copy of 810113333.

Fol. 4

18th, at about 12 o'clock noon, a copy of the opinion of the Court in this case.

From a reading of the opinion, I am strongly desirous of presenting a petition for a rehearing on the questions other than the Constitutionality of the Draft Act. The petition for a rehearing will have to be printed as required by Rule 30 of the Supreme Court, and said petition must briefly and distinctly state my grounds and must be accompanied by a certificate to be made by me, which I propose to make. All printing plants in the City of New York are closed by order of the United States Fuel Commissioner. I attach herewith a letter of my printer, The Hecla Press, to that effect.

" 5

Inasmuch as the plaintiffs-in-error are now both out on bail in the sum of \$25,000. each, and there are no circumstances about the cases, necessitating other than the usual proceedings, your deponent feels that counsel for the plaintiffs-in-error should have an opportunity of making a petition for a rehearing and any other steps he may deem advisable.

A copy of this affidavit and notice of motion has this 18th day of January, 1918, been mailed to the Solicitor General at Washington, D.C.

" 6

W H E R E F O R E, I respectfully ask that the time for the issuance of the mandate be enlarged and that the said mandate be not issued before the 21st day of February, 1918.

Sworn to before me this

18th day of January, 1918.

Harry Weinberger
Harry Weinberger



The Emma Goldman Papers

[Letter] 1918 Jan. 18, New York [to] Harry Weinberger, New York / Joseph F. Heckler. — 1 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Heckler cannot print Weinberger's petition for rehearing before the Supreme Court, as his printing plant has been temporarily closed.

Notes: Enclosed with 810113333. Transcript of 810206036.

C O P Y
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

THE HECLA PRESS
PRINTERS
57 WARREN STREET

NEW YORK, January 18th, 1918

Harry Weinberger, Esq.,
261 Broadway,
New York City.

C O P Y.

My dear Mr. Weinberger:-

In answer to your telephone communication as to whether I could print a petition to the United States Supreme Court in the case of Emma Goldman and Alexander Berkman against the United States, for a rehearing as required by the rules, I beg to inform you that our printing plant as well as all other printing plants in the City of New York have been closed by order of the United States Fuel Commissioner, and that therefore, I cannot comply with your request for a written petition until after the next five days.

Yours very truly,

(signed) THE HECLA PRESS
JOSEPH F. HECKLER,
Pres.

The Emma Goldman Papers

[Letter] 1918 Jan. 18, New York [to] Harry Weinberger, New York / Joseph F. Heckler. — 1 p. ; 21 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Enclosed with 810206039. For transcript, see 810113334.

PRINTERS
87 WARREN STREET

New York, January 18th, 1918.

Harry Weinberger, Esq.,
261 Broadway,
New York City.

My dear Mr. Weinberger:-

In answer to your telephone communication as to whether I could print a petition to the United States Supreme Court in the case of ~~Emma~~ Goldman and Alexander Berkman against the United States, for a rehearing as required by the rules, I beg to inform you that our printing plant as well as all other printing plants in the City of New York have been closed by order of the United States Fuel Commissioner, and that therefore, I cannot comply with your request for a written petition until after the next five days.

Yours very truly,



The Neela Chess

Joseph F. Heckler
Ches

The Emma Goldman Papers

810113168

[Letter] 1918 Jan. 18, New York [to Thomas Watt Gregory] Attorney General [Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 4 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey sends the attorney general a summary of the facts proved against Goldman and Berkman at their trial.

Notes: Enclosed with 810113169, Reply to 810113167 and 810113323. For follow-up letters, see 810113170 through 810113174.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

ADDRESS REPLY TO
"UNITED STATES ATTORNEY"
AND REFER TO
INITIALS AND NUMBER

J C K

15385

Department of Justice

United States Attorney's Office

New York

FM

January 18, 1918.

The Attorney General,
Washington, D. C.

S i r :

I have the honor to acknowledge receipt of your favor of January 14, 1918, requesting a concise statement, in form suitable for transmission by cable, of the salient facts proved by the Government against Emma Goldman and Alexander Berkman.

The following summary is furnished by Harold A. Content, who tried the case, and whose resignation as Assistant United States Attorney became effective on January 7, 1918:-

In the early part of May, 1917, when it became apparent that the Conscription bill would shortly be enacted into law, Emma Goldman and Alexander Berkman, together with a few anarchistic disciples, formed an incorporated or voluntary association known as the "No-Conscription League", with offices at 20 East 125th St., New York City. This association had no very definite form, the guiding spirits being Miss Goldman and Berkman, but there were two officers, Leonard D. Abbott, secretary, and Mary Eleanor Fitzgerald, financial secretary. Several preliminary meetings were held at the office of Miss Goldman, or at the office of the League; but the first public meeting was held on the very night that the Selective Service Law was signed by the President, May 18, 1917, at Harlem Park & Casino, New York City. At this meeting, the speakers included Berkman and Emma Goldman, but the police recorded only the speech of the latter. In this speech, Miss Goldman promised that the "No-Conscription League" would support all persons who refused to register and who refused to be conscripted; and she predicted that

JAN 30 1918

186233-13-106

JAN 30 1918

UNITED STATES DEPARTMENT OF JUSTICE

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The Emma Goldman Papers

810113168

[Letter] 1918 Jan. 18, New York [to Thomas Watt Gregory] Attorney General [Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 4 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey sends the attorney general a summary of the facts proved against Goldman and Berkman at their trial.

Notes: Enclosed with 810113169. Reply to 810113167 and 810113323. For follow-up letters, see 810113170 through 810113174.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

The Attorney General -2-

if enough people stood together in opposition to registration and conscription, the Government would not have an easy time suppressing them. At this meeting, she also stated it to be the doctrine of herself and her associates that they believed in violence, and would use violence.

The second meeting of importance was held on June 4, 1917, the eve of Registration Day, at Hunts Point Palace, Borough of Bronx, New York City. Hand-bills announcing this meeting as a no-conscription mass meeting, to be held on the eve of registration, were circulated. In addition to that, manifestoes were printed and distributed by this so-called "No-Conscription League", denouncing the war and stating that the League would resist conscription by every means in its power, and would sustain those who refused to be conscripted. A large number of form letters were sent out -- some signed by Berkman, and others by Miss Goldman -- telling of the mass meeting of May 18, 1917, and of the pledge of 8000 persons not to register or to be conscripted, and appealing for funds to carry on the work of the League. In addition to the foregoing, the respective magazines published by Berkman and Miss Goldman were employed to defeat the objects of the Selective Draft Law. "The Blast", Berkman's magazine, contained a particularly offensive article entitled "Registration", in which he represents that by submitting to registration, a person cannot successfully oppose conscription, and that therefore the conscientious objector should neither register nor be conscripted. The June issue of Miss Goldman's magazine, "Mother Earth", also contained a number of articles denouncing conscription and everything patriotic.

At the mass meeting of June 4, 1917, which was attended by a number of Federal officials, in addition to the police, both Emma Goldman and Berkman used language a trifle more circumspect than the words of Emma Goldman at the meeting of May 18, 1917; but, by insinuation and innuendo, they urged those of conscriptable age not to register and not to fight.

On June 11, 1917, a meeting at which Emma Goldman spoke was held at the Royal Lyceum; and on June 14, 1917, another meeting at which both Berkman and Emma Goldman were among the speakers

The Emma Goldman Papers

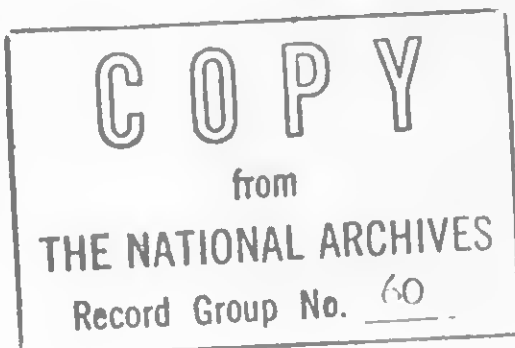
810113168

[Letter] 1918 Jan. 18, New York [to Thomas Watt Gregory] Attorney General [Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 4 p. ; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey sends the attorney general a summary of the facts proved against Goldman and Berkman at their trial.

Notes: Enclosed with 810113169. Reply to 810113167 and 810113323. For follow-up letters, see 810113170 through 810113174.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

The Attorney General -3-

was held at Forward Hall, on the lower East Side of New York City. At this meeting, Emma Goldman denounced the courts and the Judges, particularly Judge Mayer, and stated that she defied the laws of the United States. The following day, Berkman and Miss Goldman were arrested at the headquarters of the League, where, incidentally, were also the offices of their respective publications, "The Blast" and "Mother Earth".

It was also brought out in the trial that Berkman and Miss Goldman were not the ideals they claimed to be, but that they collected funds at the mass meetings, placed them in Berkman's personal bank account, and then used the funds -- at least in part -- for their own purposes, without rendering any accounting whatsoever.

The defendants did not take the witness-stand in their own behalf; but the testimony offered for the defense consisted in a denial of the language attributed to Emma Goldman in her speech of May 18, 1917, and in an endeavor to show that the defendants did not believe in violence. This evidence was rebutted by the introduction of a prior issue of "Mother Earth", at which time Miss Goldman was the owner and Berkman the editor, in which the sentiments of both in regard to the use of violence were clearly set forth. The defendants claimed at all times that they never urged any one not to register because of the fact that they were anarchists, and therefore never advised others what to do, but left it to the conscience of each person. However, Judge Mayer, in his charge, properly pointed out that words are elusive, and not always direct, and that a person may so frame his language subtly and insidiously that the inference to be derived therefrom is perfectly clear.

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The Emma Goldman Papers

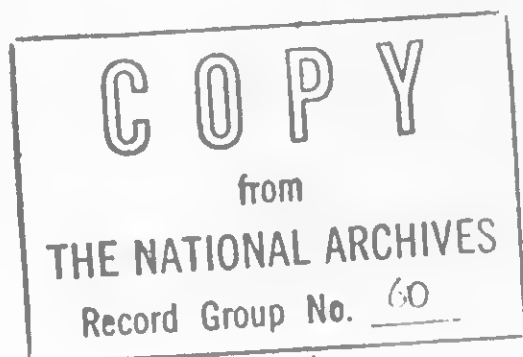
810113168

[Letter] 1918 Jan. 18, New York [to Thomas Watt Gregory] Attorney General [Department of Justice], Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 4 p. ; 36 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey sends the attorney general a summary of the facts proved against Goldman and Berkman at their trial.

Notes: Enclosed with 810113169. Reply to 810113167 and 810113323. For follow-up letters, see 810113170 through 810113174.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

The Attorney General -4-

At the time of the arrest, among the papers found in the office of the "No-Conscription League" was a letter written in Switzerland by a Hindoo named Tarak Nath Das and addressed to Alexander Berkman. This letter related to a proposed uprising in India against the British Government, involving also a breach of the neutrality laws of the United States. The original of this letter was sent to United States Attorney Preston at San Francisco for use in the trial of certain Hindoos and others in the District Court of the United States for the Northern District of California.

Respectfully,

Francis G. Caffey

U. S. Attorney.

400

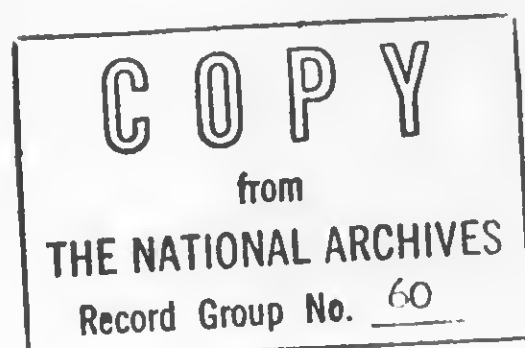
The Emma Goldman Papers

[Letter] 1918 Jan. 19, New York [to Thomas Watt Gregory] Attorney General, Department of Justice, Washington, D.C. / Francis G. Caffey, United States Attorney, Department of Justice. — 1 p. ; 36 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Caffey suggests that the State Department look at the government's brief in Goldman's Supreme Court appeal.

Notes: For reply, see 810113346. For letter mentioned, see 810113168.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

ADDRESS REPLY TO
"UNITED STATES ATTORNEY"
AND REFER TO
INITIALS AND NUMBER

Department of Justice

United States Attorney's Office

15385

New York

January 19, 1918.

The Attorney General,
Department of Justice,
Washington, D. C.

Sir:

Referring to my letter of yesterday, transmitting a statement by Mr. Content, recently Assistant United States Attorney, of the substance of the evidence in the case of Alexander Berkman and Emma Goldman, I suggest that it might be of value to the State Department to see the brief of Solicitor General Davis in the Selective Service Act cases.

Respectfully,

Francis G. Caffey

United States Attorney.

FEB 4 1918

186233-13-98

JAN 2 1918

filed

The Emma Goldman Papers

[Letter] 1918 Jan. 19, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Maher informs Weinberger that he will wire him as soon as the the Court issues its mandate.

Notes: Reply to 810206035. For memorandum mentioned, see 810206061.

OFFICE OF THE CLERK,
Supreme Court of the United States,
Washington, D.C. January 19th, 1918.

Harry Weinberger, Esq.,
New York City.

Dear Sir:-

Yours of the 15th instant received. The mandate of this Court in case of Emma Goldman and Alexander Berkman, Plaintiffs in Error, vs. The United States, No. 702 of October Term, 1917, will not be issued before the fifteenth of February, 1918, but will be issued as soon after that date as it is asked for by the Attorney General. I have made a memorandum to wire you as soon as the mandate issues.

Yours truly,

JAMES D. MAHER,

Clerk, Supreme Court, U.S.

Per *Wm. M. Keeney* Deputy.

RFC.

The Emma Goldman Papers

Goldman [& Berkman] v. United States: Motion for an Order enlarging time for issuing mandate, 1918 Jan. 21 [cover page] / [James? D.? Maher? Clerk? United States Supreme Court].— 1 p. ; 18 × 9 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: For enclosures, see 810113332 through 810113335.

File No. 26,169. .

SUPREME COURT U. S.

October term, 191 7.

Term No. 702.

..... Emma Goldman et al.,

..... Pl'ffs in Error,

vs.

..... The United States.

..... Motion for an order enlarging
..... time for issuing mandate.

Filed. January 21, 1918, 191

403

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Campbell forwards a report on Lilly Winner and Louis Weitzenkorn to Colonel Van Deman.

Notes: Light copy. For enclosure, see 810402058.

5730-LC

OFFICE OF
MILITARY INTELLIGENCE
ROOM No. 806
302 BROADWAY
NEW YORK CITY

FEB 1954
 JAN 20 1954
 10110-524
 30
 WAR DEPARTMENT
 Jpa

January 21, 1918.

FROM: Major Nicholas Biddle,

TO: Colonel R. H. Van Deman, Chief, Military Intelligence Section,
Washington, D. C.

SUBJECT: Emre Goldman and Others.

1. I attach report of agent Brady on the Emma Goldman case, with references to Miss. Winner and Louis Weitzenkorn. Your file #10110-524.

Nicholas Biddle
Major, Sig. R.C., A.S.
per W. Campbell
1st Lieut. U.S.R.

REC'D. SS. JAN 2 1968
WLC/d

Enclosure-1

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 21 /
[Antol] Rodau, Informant [Bureau of Investigation, Department of Justice]. —
2 p.; 32 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Informant Rodau describes the results of his surveillance of Goldman. He names several people who attended her lecture on January 17, and lists the letters she received that day.

Notes: Dark copy.

REPORT MADE BY: Informant Rodau	PLACE WHERE MADE: Detroit, Mich	DATE WHEN MADE: 1-21-1918	PERIOD FOR WHICH MADE: 1-17-1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: Re: <u>Emma Goldman</u> <u>Anarchist</u>			
STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.: <u>At Detroit, Mich.</u> Continuing investigation in the above ^{matter} I ascertained that the man who drove <u>Emma Goldman</u> on the preceding night to the Beuttler Restaurant, with car license 1917 Mich. - K - 4474, is Louis Gorelick who lives at 253 Westminster ave. I was shown a telegram at the Statler Hotel that was received by Emma Goldman as follows: "Nothing will be done New York until mandate comes from United States Attorney and the Marshal. This part of the telegram was all I could detect. This was sent by the Western Union on the 16th. inst. Mr. Clair, Manager of the Statler also showed a letter to Emma Goldman from Thomas DeLoof, 247 Harmon Avenue, Detroit, Mich. dated January 17th. 1918. Another letter addressed to Emma Goldman sent from Rochester, N. Y. dated January 16th; another letter sent from Dr. Ben L. Reitman, 303 Bush Temple, Chicago, Ill and a letter from Harry Weinberger, Counselor-at-Law, 261 Broadway, New York. At 8:00 o'clock Emma Goldman spoke at the Social Turner Hall before a large audience on "Women Martyrs of Russia"; Sophie Markowitz and her husband Spaso; Maurice Sugar; Mr. Peperno, a Russian lawyer and Defendant of the Anti-conscripts and Mr. Selzer also known as a Defendant of the Anti-conscripts; Odierne, a well known Italian I. W. W.; Mrs. Minnie Fishman and her husband of 1620 West Grand Blvd., the most intimate friends of Emma Goldman and who arranged for her coming to Detroit, were present. The contents of this speech I shall enclose as soon as possible. Henry Montgomery, special investigator of Prosecuting Attorney Jasnowski, known as a prominent writer for the News P - 4			
COPY OF THIS REPORT FURNISHED TO: 67-677			

BEST COPY AVAILABLE

405

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 21 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice]. — 2 p. ; 32 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Informant Rodau describes the results of his surveillance of Goldman. He names several people who attended her lecture on January 17, and lists the letters she received that day.

Notes: Dark copy.

Re: Emma Goldman (Con'td) Informant Rodau for Thursday, January 17th. 1918

has expressed his Anarchistic views in the presence of Mr. Cole, Agent in Charge and Edward Fox, Chief of Detectives, on the previous night, speaking very freely in approval of the actions of Emma Goldman.

P - 5

BEST COPY AVAILABLE

406

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 21 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].— 2 p.; 26 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes Goldman's telephone conversations in Detroit which the hotel operator intercepted at his instructions. Goldman makes plans for speeches and personal visits, but is called back to appear in court in New York.

REPORT MADE BY: Informant Rodau	PLACE WHERE MADE: Detroit, Mich	DATE WHEN MADE: 1-21-1918	PERIOD FOR WHICH MADE: 1-18-1918
------------------------------------	------------------------------------	------------------------------	-------------------------------------

TITLE OF CASE AND OFFENSE CHARGES OR NATURE OF MATTER UNDER INVESTIGATION:
Re: Emma Goldman
Anarchist

STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.:
At Detroit, Mich.

Arriving too late from Pontiac to attend the Emma Goldman lecture, I proceeded to the Statler Hotel where I obtained the following information: from Miss Dunbar, Chief Telephone Operator and Miss Cavan; that on January 17th. Emma Goldman occupying room 1002 at the Hotel Statler talked with Hemlock 3002 and from her conversation she was to have spent the evening of the 17th. with the party with whom she was talking but for certain reasons was detained at the Hotel. She also called Ann Arbor, a Miss Burt - 1511 W., and was to have gone to Ann Arbor Friday for lunch but would not be able to go until Saturday and that she will take a number of friends along with her; that Mrs. Nelson at 1603-R, Ann Arbor is going to do the entertaining on Saturday.

At 7:48 P. M. The Free Press called Miss Goldman asking her if she was going to speak in English or Russian on the 17th. and she said she was going to speak in English for an hour. At 8:10 P. M. Mr. Zollie called and said he would be over at once to call for Miss Goldman. New York called her and she is going to leave Sunday, A. M. they wanted her to leave at once but she refused but would not give any reason.

On January 18th. she received the following telegram: "Harry trying to do whatever possible but we expect no success. Both Harry and I advise you to return immediately. we may have to appear in Court Tuesday morning." (Signed) "S". S is very likely Sasha which is the diminutive form for Alexander in the Russian language, and this telegram is very likely from Alexander Berkman.

P - 7

BEST COPY AVAILABLE

407

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 21 / [Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].— 2 p.; 26 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Rodau describes Goldman's telephone conversations in Detroit which the hotel operator intercepted at his instructions. Goldman makes plans for speeches and personal visits, but is called back to appear in court in New York.

Re: Emma Goldman (Con'td) Informant Rodau for Friday, January 18th 1918

At 7:40 P. M. on the 18th. she talked to Mrs. Nelson of the Michigan Daily at Ann Arbor, saying that she would have to use her evening subject for her afternoon lecture; that she had a wire from her Attorney to come to New York and that she could not risk \$25,000.00. She said she would stop at the Allenel Hotel at Ann Arbor. She also talked to Mrs. Burt 1511-W, Ann Arbor, saying she had a wonderful meeting here and that the Department of Justice was represented and that at Chicago she was not disturbed and that she was leaving on the 11:15 train for New York/

At 7:55 P. M. she called Ann Arbor but talked Russian and informant was unable to give substance of her conversation.

P. 8

BEST COPY AVAILABLE

408

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 21 / F[red] H. Hessler, Agent [Bureau of Investigation, Department of Justice].— 2 p.; 27 × 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Hessler finds out by what train Goldman leaves Detroit for New York and follows her as far as Windsor, Ontario.

REPORT MADE BY: F.H.Hessler	PLACE WHERE MADE: Detroit, Mich.	DATE WHEN MADE: 1-21-18	PERIOD FOR WHICH MADE: 1-19-18
TITLE OF CASE AND OFFENSE CHARGED ON DATE OF LAST ORIGIN INVESTIGATION: Re: Emma Goldman Anarchist			
DEPARTMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC. At Detroit, Michigan & Windsor, Ont.			
<p>Pursuant to instructions from Agent in Charge, proceeded to the Statler Hotel in company with Informant Rodau, and American Protective League Operative #1290, where we interviewed the head-porter "Jean", who told us he had reserved pullman ticket #8160, Upper 9, train 8, leaving Detroit at 3:55 P.M. for New York. The ticket was for <u>Emma Goldman</u>. A man by the name of <u>Fishman</u> was to call for same and meet the train bearing Emma Goldman from Ann Arbor due in Detroit at 3:45 P.M. After waiting for the ticket to be claimed and not called for fifteen minutes before train time, proceeded to the Michigan Central Depot and waited the arrival of train No.8 from Ann Arbor. Covered all passengers but could not locate Emma Goldman. We then proceeded to the waiting room where we found Emma Goldman in company with this man, Fishman and his wife, and another man, name unknown. Emma Goldman evidently came from Ann Arbor by the Electric Road.</p> <p>I covered part of her conversation, and heard her say to Mr. Fishman, "I see they exempted Henry Ford's Factory from closing, this may lead to a revolution, the closing of these factories." Mr. Fishman then left her and went to the ticket window where he secured a ticket, berth No.10 for car No. 515, train No. 48 for New York, due to leave at 6.10 P.M. The train was thirty minutes late in leaving due in New York at 9.30 A.M.</p> <p>I then proceeded with Informant Rodau to the train, accompanying Emma Goldman, under cover. She occupied seat No.10 in car no.515. We rode with her as far as Windsor, Ontario, west P-3</p>			
COPY OF THIS REPORT FURNISHED TO: New York Office			

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 21 / F[red] H. Hessler, Agent [Bureau of Investigation, Department of Justice].— 2 p.; 27 × 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Hessler finds out by what train Goldman leaves Detroit for New York and follows her as far as Windsor, Ontario.

Re: Emma Goldman (Cond'd.) Agent Hessler, for Saturday, 1-19-18.

Sandwich, where we alighted. We then boarded a ferry, proceeded to Detroit, thence to this office, where informant Rodan sent the following telegram to Agent Offley, New York:

"Emma Goldman leaves Detroit for New York City to-night
Michigan Central Train number forty eight upper berth
ten car number five one five Sandown pullman"

P - 4

The Emma Goldman Papers

[Report on Guillotine Club—Lilly Winner, New York, 1918 Jan.? 22?] / [John? H.? Brady? Inspector? Military Intelligence Division, War Department]. — 1 p.; 28 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Inspector Brady summarizes information about Lilly Winner obtained from her mail.

Notes: Enclosed with 810331087.

(COPY)

Enc 2

10110-524

Letter to W.F. Williams, 51 West 35th Street, received January 22nd, A.M., from 1509 Walnut Street, Kansas City, Missouri. 40

Information taken from Lilly Winner's letters. The following 102 have applied for membership in the Guillotine Club:

R. Abrams, age 19, Russian, Married, student, lives at 368 East 11th Street, not a citizen.

Harry L. Dumas, age 24, Russian, single, lives at 232 East 13th Street - a citizen.

Harry Tabershaw, age 20, student, Russian, single, not a citizen, lives at 81 Ludlow Street.

Sam Atken, age 19, Russian, bookkeeper, single, not a citizen, lives at 316 East 8th Street.

Also Louis Weitzenkorn, Hotel Oneota, Harvey Lake, Pa.

Also letter from Margaret Sanger, dated December 20th, 1917.

My dear Lilly:

Thank you so much for the articles enclosed it was perfectly splendid and ever so kind of you. I cannot tell you how much I appreciate you doing it so quickly and so well. I will be glad to have some articles from Louis. I am hoping to see you both and talk this over with you.

Margaret Sanger.

P.S. Am going to try to see you both Saturday night at 23.

Lodge membership show Lilly Winner as having become a member of the Volunteer League of the National American Woman Suffrage Association and as an honorary regent of the League. In her papers were found cards of Fuchs - 1062 Bryant W.H. Wakefield, Siltor Beach, West Chester, N.Y. also Carl Hecht, 3862 Third Avenue & also a letter from Aron Hurwitz, Paramount Shoe Store, 42 1/2 So. Main Street, Wilkesbarre.

The Emma Goldman Papers

[Agent Report] In re: Meeting held under auspices of Northwest Labor School, 2021-23 E. Division St., Chicago, 1918 Jan. 22 / B. N. Grossman, Operative, American Protective League. — 2 p. ; 27 x 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: An American Protective League operative describes a meeting at the Northwest Labor School at which Goldman spoke about her anti-conscription trial and appeal.

REPORT MADE BY American Pro. League	PLACE WHERE MADE Chicago, Ill.	DATE WHEN MADE Jan 22nd, 1918.	PERIOD FOR WHICH MADE Jan. 11, 1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION In Re: Meeting held under auspices of Northwest Labor School, 2021-23 E. Division St.			
STATEMENT OF OPERATIONS EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, FACTS DEVELOPED, ETC. AT CHICAGO Operative Grossman B. N. 9166 under Lieut. Cornell of Captain Wyckoff's Company in Inspector Hodge's Division, reports: Emma Goldman principal speaker. Chairman of the evening, Cook, who announced that war tax was charged by rule of the Government; that the admission charge was made to defend cases like the Mooney case, the Milwaukee bombers, Goldman, Seattle and Berkman cases, and that the war tax was charged to prosecute such cases; that if the Government did not need it for that, they would not have to charge admission fees either. I.W.W. literature distributed and sold, among which were pamphlets printed in Russian and other foreign languages, also Mother Earth bulletin. Announcement made by Cook and by Goldman that Mother Earth bulletin was suppressed, but under the subscription terms of \$1.00 plus 36¢ for postage, they would mail it first-class; otherwise the mail would be opened and when it was found to contain Mother Earth bulletin, it would be confiscated. In the course of the address, Goldman stated that the Supreme Court of the United States has denied the appeal of Goldman and Berkman (which appeal was sold for 50¢) and she said "We were found guilty not for being conspirators against the draft because there was no evidence to prove it, although we were, but they convicted us because we were anarchists, of which we were proud and of which any court in this country could not help but find us guilty." The Goldman remarks brought forth considerable applause.			
COPY OF THIS REPORT FURNISHED TO Chicago Office			33

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412

The Emma Goldman Papers

[Agent Report] In re: Meeting held under auspices of Northwest Labor School, 2021-23 E. Division St., Chicago, 1918 Jan. 22 / B. N. Grossman, Operative, American Protective League. — 2 p. ; 27 x 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: An American Protective League operative describes a meeting at the Northwest Labor School at which Goldman spoke about her anti-conscription trial and appeal.

- 2 -

The audience was composed of about 350 people, about half of which were women and it was noted that the large majority of the men were of draft age.

Northwest Labor School is reported, under reliable authority, to be a hotbed of radical Socialists, I.W.W.'s and Anarchists.

Copy of Industrial Workers of the World issue of January 5th and two pluggers attached hereto.

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413

The Emma Goldman Papers

[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 22 /
[Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].—
2 p.; 31 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Informant Rodau reports on his efforts to follow Goldman in Detroit and Ann Arbor and to find out what train she was taking to New York.

REPORT FORM NO. 1

REPORT MADE BY: Informant Rodau	PLACE WHERE MADE: Detroit Mich	DATE WHEN MADE: 1-22-1918	PERIOD FOR WHICH MADE: 1-19-1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION: Re: <u>Emma Goldman</u> Anarchist			
STATEMENT OF OPERATIONS, EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.: <p><u>At Detroit, Mich.</u></p> <p>At 9:45 A. M. <u>Emma Goldman</u> called the Detroit News for Lee Smith but he was not in. At 10:05 A. M. called Mr. Smith at Cherry 4200, telling him she had to leave for Ann Arbor at 10:20 A. M. and also that she had to be in New York tomorrow that Washington had gone back on their promise to give her 30 days; that she will have to appear in Court on Monday; that she was supposed to hold two meetings at Ann Arbor but will be limited to one, saying she expected to get in trouble there for their papers had given her an awful write-up; have had four letters from New York so cannot take any chances on losing \$25,000.00; that after the war they will let all free any way, so donot spoil your life; put a slip in the paper stating there will be no meeting tonight.</p> <p>I proceeded to the Statler Hotel where I was shown letters addressed to Emma Goldman, one from 311 South Division St. Ann Arbor, Michigan, one from Mr. E. Kern, 308 Catherine St. Ann Arbor, one from the Shakespeare Play House, Frank McEntee, Director, Cort Theater, New York City. I interviewed Gene Hewitt, head porter at the Statler Hotel who stated that he had received a telephone call from Emma Goldman at Ann Arbor, saying she was unable to call for her reservation at Detroit and she would send Mr. Fishman for her ticket as she will leave Ann Arbor at 2:45 on the Wolverine and arrive at 3:55 P. M. and get her ticket from Mr. Fishman and proceed to New York. Her ticket number was Pullman - 8160, upper berth #9, train #8, Pullman car 502. I waited at the above Hotel until a short time before train was due but Mr. Fishman did not</p> <p style="text-align: right;">P - 2</p>			
COPY OF THIS REPORT FURNISHED TO: New York Office			

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414

The Emma Goldman Papers

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[Agent Report In] re: Emma Goldman—Anarchist, Detroit, Mich., 1918 Jan. 22 /
[Antol] Rodau, Informant [Bureau of Investigation, Department of Justice].—
2 p.; 31 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Informant Rodau reports on his efforts to follow Goldman in Detroit and Ann Arbor and to find out what train she was taking to New York.

Re: Emma Goldman (Con'td) Informant Rodau for Saturday, January 19th. 1918

call for her ticket. I proceeded to the Michigan Central Depot in company with Agent Hessler and Operative 1290 of the American Protective League and looked over the Wolverine train coming from Ann Arbor and especially Pullman 502, but could not locate Emma Goldman. We proceeded to the Michigan Central Station where we noticed Emma Goldman with Mr. and Mrs. Fishman and another party. We waited until the Detrouiter arrived, Mr. Fishman had purchased a ticket on Train #48, The Detrouiter, Pullman 515 "Sandown", upper berth #10. In company with Agent Hessler we got on the same train and rode with Emma Goldman as far as West Sandwich, Ontario, Canada. Agent in Charge Cole sent telegram to Agent Offley, New York City as follows:

"Emma Goldman leaves Detroit for New York City this afternoon Michigan Central train #eight upper berth nine car number five naught two Pullman ticket number eight one six naught."

As Emma Goldman forfeited the above ticket to come to Detroit from Ann Arbor on the street car and took another train, Agent in Charge

Cole sent the following corrected telegram to Agent Offley, New York City, January 19th. 1918:

"Corrected Emma Goldman leaves Detroit for New York City tonight Michigan Central train number forty-eight Upper berth ten car number five one five Sandown Pullman."

P - 3

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415

The Emma Goldman Papers

[Letter] 1918 Jan. 22, Washington [D.C. to] R[alph] H. Van Deman, Chief, Military Intelligence [Division] War Department, Washington, D.C. / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department. — 1 p. ; 28 x 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: McCauley warns Van Deman that Mr. Collier, a Goldman associate, has arrived in Los Angeles. He summarizes the contents of a letter Collier received from Goldman.

Notes: For Van Deman's response, see 810402035.

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION

In reply refer to No.

31018-17

JAN 10 1918

NAVY DEPARTMENT

CONFIDENTIAL

OFFICE OF NAVAL INTELLIGENCE
WASHINGTON

LOG: CHIEF DEPARTMENT

January 23, 1918.

My dear Colonel Van Deman:

This Office has received information from the Branch Office of Naval Intelligence in San Francisco that a New York radical of the Emma Goldman fraternity, by the name of Collier, is at the present time in Los Angeles, California, for the purpose of organizing an American Bolsheviki movement.

Collier recently received a letter from Emma Goldman, in which she congratulates him on his clever alias as a movie actor, and advises him not to go to the Hawaiian Islands for some time yet. She also congratulates him on his clever idea of holding his meetings in cabaret cafés, and adds that it takes a smart man like him to slip things over on the great United States detective force.

The meetings referred to in Los Angeles have been reported to the United States District Attorney.

The above information has been sent to the Department of Justice.

Very truly yours,

E. McCauley, Jr.

JAN 24 1918

Commander, U. S. N.,
Assistant Director of Naval Intelligence.

Colonel R. H. Van Deman, U. S. A.,
Chief, Military Intelligence Section,
War Department,
Washington, D. C.

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The Emma Goldman Papers

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[Letter] 1918 Jan. 22, Washington [D.C. to] A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice, [Washington, D.C.] / E[dward] McCauley, Jr., Assistant Director, Office of Naval Intelligence, Navy Department. — 1 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: McCauley notifies Bielaski that a radical and Goldman associate named Collier recently arrived in Los Angeles. He summarizes the contents of a letter from Goldman to Collier.

Notes: Enclosed with 880928022 through 880928025. For same letter to Military Intelligence Division, see 810402036.

CONFIDENTIAL

NAVY DEPARTMENT
OFFICE OF NAVAL INTELLIGENCE LCC:CEG
WASHINGTON

in reply refer to No.
31018-17

157291
January 22, 1918.

My dear Mr. Bielaski:

This Office has received information from the Branch Office of Naval Intelligence in San Francisco that a New York radical of the Emma Goldman fraternity, by the name of Collier, is at the present time in Los Angeles, California, for the purpose of organizing an American Bolshevik movement.

Collier recently received a letter from Emma Goldman, in which she congratulates him on his clever alias as a movie actor, and advises him not to go to the Hawaiian Islands for some time yet. She also congratulates him on his clever idea of holding his meetings in cabaret cafes, and adds that it takes a smart man like him to slip things over on the great United States detective force.

The meetings referred to in Los Angeles have been reported to the United States District Attorney.

The above information has been sent to the Military Intelligence Section.

Very truly yours,

E. McCauley Jr.

Commander, U. S. N.,
Assistant Director of Naval Intelligence.

Mr. A. B. Bielaski,
Chief, Bureau of Investigation,
Department of Justice.

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417

The Emma Goldman Papers

The Selective Draft Act Held Valid / Supreme Court of the United States. — p. 1300 ; 28 cm. In New York Law Journal. — Vol. 58, no. 93 (Jan. 22, 1918).

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: The New York Law Journal prints the Supreme Court's opinion upholding the constitutionality of the Selective Draft Act in *Arver, et al. v. United States*, a companion case to Goldman and Berkman's appeal.

Notes: Six shots of two pages.

New York Law

VOLUME LVIII—NO. 93.

NEW YORK, TUESDAY, JANUARY 22, 1918

LEGAL ADVISORY BOARD FOR THE DISTRICT OF THE GREATER CITY OF NEW YORK UNDER THE SELECTIVE SERVICE LAW AND REGULATIONS.

Room 614 Hall of Records,
Chambers St., Borough of Manhattan,
New York City.

BULLETIN NO. 21.

Continuing Duties of Local Law Boards.

To the Chairmen and Members of Local Law Boards:

In a few districts a substantial number of Questionnaires remain to be sent out; in others registrants in very considerable numbers have failed, for various reasons, to file their Questionnaires. In all cases Local Law Boards are expected, so long as the necessity exists, to keep together their organization for the purpose of advising registrants.

It will be the duty of Local Law Boards:

1. To make provision for advising registrants at all times when Local Exemption Boards are open for business.
2. To have at least one member present at hearings by Local Exemption Boards on claims for deferred classification to give necessary advice to registrants. It must be borne in mind that registrants are not entitled to be represented by counsel before Local Exemption Boards, and that the Local Exemption Boards may conduct hearings as they deem advisable.
3. If the Local Exemption Boards deem necessary, to assist registrants in getting further proof by affidavit or otherwise; and
4. To render aid to registrants in connection with applications for reopening cases.

The Director of the Draft for the City of New York and the Permanent Members are in full agreement that there must be close co-operation and cordial relations between the Exemption Boards and the Local Law Boards, both for the advantage of the Government and for the advantage of the registrants.

SPECIAL ORDERS.

Appellate Division of the Supreme Court, First Department.

The United States Fuel Administrator acting under the authority of an executive order of the President of the United States dated August 23, 1917, in furtherance of the purposes of said order and of the purposes of the Act of Congress therein referred to, dated August 10, 1917, having made an order which provides that, "on each Monday, beginning January 21, 1918, and continuing up to and including Monday, March 25, 1918, no fuel shall be burned (except to such extent as is essential to prevent injury to property from freezing) for the purpose of applying heat for: (A) Any business or professional offices," and it having been made to appear to this court that many members of the Bar occupy offices in large office buildings coming within the prohibition referred to, it is

Ordered, that upon the Mondays specified, or until the further order of this court, none of the Special and Trial Terms of the Supreme Court in the First Judicial District, with the exception of Special Terms Part I and Part II, in the County of New York, and the Special Term for the hearing of motions and *ex parte* business in the County of Bronx, shall be held on said Mondays, and all terms appointed to begin on any of said Mondays and causes set for trial on any of said Mondays, shall be postponed to the following day.

Dated New York, January 18, 1918.
JOHN PROCTOR CLARKE,
FRANK C. LAUGHLIN,
FRANCIS M. SCOTT,
WALTER LLOYD SMITH,
ALFRED R. PAGE,
CLARENCE J. SHEARN.

City Court of the City of New York.

At a special meeting of the Justices of the City Court of the City of New York held this 21st day of January, 1918, it was

Ordered that upon each Monday, beginning January 28, and continuing up to and including March 25, 1918, or until the further order of this court, none of the trial terms of the City Court of the City of New York shall be held on said Mondays, and all terms appointed to begin on any of said Mondays and causes set for trial on any of said Mondays shall be postponed to the following day.

Dated New York, January 21, 1918.
FRANK J. GOODWIN,
Clerk.

ALUMNI ASSOCIATION OF THE SCHOOL OF COLUMBIA UNIVERSITY.

The annual meeting of the association will be held at the Columbia University

CONSTITUTIONAL

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Summary: The New York Law Journal prints the Supreme Court's opinion upholding the constitutionality of the Selective Draft Act in *Arver, et al. v. United States*, a companion case to Goldman and Berkman's appeal.

Notes: Six shots of two pages.

Law Journal.

JANUARY 22, 1918—TWELVE PAGES.

PRICE FIVE CENTS.

CONSTITUTIONAL LAW.

The Selective Draft Act Held Valid.

SUPREME COURT OF THE UNITED STATES.

January 7, 1918.

JOSEPH F. ARVER, plaintiff in error, v. THE UNITED STATES OF AMERICA.
JOSEPH F. GRAHL, plaintiff in error, v. THE UNITED STATES OF AMERICA.
OTTO WANGERIN, plaintiff in error, v. THE UNITED STATES OF AMERICA.
WALTER WANGERIN, plaintiff in error, v. THE UNITED STATES OF AMERICA.

In error to the District Court of the United States for the District of Minnesota.

LOUIS KRAMER, plaintiff in error, v. THE UNITED STATES OF AMERICA.
MEYER GRAUBARD, plaintiff in error, v. THE UNITED STATES OF AMERICA.

In error to the District Court of the United States for the Southern District of New York.

Under the authority granted by the Federal Constitution to declare war and to raise and support armies (Art. I, sec. 8), the National Government may draft citizens, and those provisions of the Act of Congress of June 5, 1916, authorizing a Selective Draft are constitutional.

Each provision does not violate the Thirteenth Amendment of the Federal Constitution prohibiting the imposition of involuntary servitude.

The Selective Draft Act is not void as a delegation of federal power to state officials, or because vesting administrative officers with legislative discretion, or because improperly conferring judicial power.

The exemption clauses of the act are not repugnant to the First Amendment of the Constitution as interfering with the free exercise of religion.

T. E. Latimer, of Minnesota, attorney for Otto Wangerin, Walter Wangerin, Joseph F. Arver and Alfred F. Grahl, plaintiffs in error.

Harry Weinberger, of New York, attorney for Louis Kramer, plaintiff in error.

Edwin T. Taliferro and L. M. Sackin, of New York, attorneys for Meyer Graubard, plaintiff in error.

John W. Davis, solicitor-general (Robert Skold of counsel), for defendant in error, The United States of America.

Mr. Chief Justice WHITE delivered the opinion of the court.

We are here concerned with some of the provisions of the Act of May 18, 1917 (Public No. 12-65th Congress, 1st sess., ch. 154).

Section 1 of the act authorized the President to increase temporarily the military establishment of the United States. The law, as its opening sentence declares, was intended to apply temporarily the increased military force which was required by the existing emergency, the war then and now fla-

the power and repugnant to the constitution. The cases are here for review, because of the constitutional questions thus raised, convictions having resulted from instructions of the courts that the legal defenses were without merit and that the statute was constitutional.

The possession of authority to enact the statute must be found in the clauses of the constitution giving Congress power "to declare war"; "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years"; "to make rules for the government and regulation of the land and naval forces" (art. I, sec. 8). And, of course, the powers conferred by these provisions, like all other powers given, carry with them, as provided by the constitution, the authority "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers" (art. I, sec. 8).

As the mind cannot conceive an army without the men to compose it, on the face of the constitution the objection that it does not give power to provide for such men would seem to be too frivolous for further notice. It is said, however, that since under the constitution as originally framed state citizenship was primary and United States citizenship but derivative and dependent thereon, therefore the power conferred upon Congress to raise armies was only coterminous with United States citizenship and could not be exerted so as to cause that citizenship to lose its dependent character and dominate state citizenship. But the proposition simply denies to Congress the power to raise armies which the constitution gives. That power by the very terms of the constitution, being delegated, is supreme (art. 6). In truth the contention simply assails the wisdom of the framers of the constitution in conferring authority on Congress and in not retaining it as it was under the confederation in the several states. Further, it is said, the right to provide is not denied by calling for volunteer enlistments, but it does not and cannot include the power to exact enforced military duty by the citizen. This, however, but challenges the existence of all power, for a governmental power which has no sanction to it, and which, therefore, can only be exercised provided the citizen consents to its exertion, is in no substantial sense a power. It is argued, however, that although this is abstractly true, it is not concretely so, because compelled military service is repugnant to a free government and in conflict with all the great guarantees of the constitution as to individual liberty, it must be assumed that the authority to raise armies was intended to be limited to the right to call an army into existence, counting alone upon the willingness of the citizen to do his duty in time of public need, that is, in time of war. But the premise of this proposition is so devoid of foundation that it leaves not even a shadow of ground upon which to base the conclusion. It is not to be denied that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it (Vattel, Law of Nations, book III, c. 1 & 2). To do more than state the proposition is absolutely unnecessary, in view of the practical illustration afforded

by the calls made upon them met the situation when they deemed it necessary by directing enforced military service on the part of the citizens. In fact the duty of the citizen to render military service and the power to compel him against his consent to do so was expressly sanctioned by the constitutions of at least nine of the states, an illustration being afforded by the following provision of the Pennsylvania Constitution of 1776: "That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion toward the expense of that protection, and yield his personal service when necessary, or an equivalent thereto" (art. 8, Thorpe, American Charters, Constitutions and Organic Laws, vol. 5, pp. 3081, 3083). (c) While it is true that the states were sometimes slow in exerting the power in order to fill their quotas—a condition shown by resolutions of Congress calling upon them to comply by exerting their compulsory power to draft and by earnest requests by Washington to Congress that a demand be made upon the states to resort to drafts to fill their quotas (d)—that fact serves to demonstrate instead of to challenge the existence of the authority. A fault in exercising a duty must not be resorted to as a reason for denying its existence.

When the constitution came to be formed it may not be disputed that one of the recognized necessities for its adoption was the want of power in Congress to raise an army and the dependence upon the states for their quotas. In supplying the power it was manifestly intended to give it all and leave none to the states, since besides the delegation to Congress of authority to raise armies the constitution prohibited the states, without the consent of Congress, from keeping troops in time of peace or engaging in war (art. 1, sec. 10).

To argue that as the state authority over the militia prior to the constitution embraced every citizen, the right of Congress to raise an army should not be considered as granting authority to compel the citizen's service in the army, is but to express in a different form the denial of the right to call any citizen to the army. Nor is this met by saying that it does not exclude the right of Congress to organize an army by voluntary enlistments, that is, by the consent of the citizens, for if the proposition be true, the right of the citizen to give consent would be controlled by the same prohibition which would deprive Congress of the right to compel unless it can be said that although Congress had not the right to call because of state authority, the citizen had a right to obey the call and set aside state authority if he pleased to do so. And a like conclusion demonstrates the want of foundation for the contention that although it be within the power to call the citizen into the army without his consent, the army into which he enters after the call is to be limited in some respects to services for which the militia it is assumed may only be used, since this admits the appropriateness of the call to military service in the army and the power to make it and yet destroys the purpose for which the call is authorized—the raising of armies to be under the control of the United States.

The fallacy of the argument results from confounding the constitutional pro-

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Summary: The New York Law Journal prints the Supreme Court's opinion upholding the constitutionality of the Selective Draft Act in *Arver, et al. v. United States*, a companion case to Goldman and Berkman's appeal.

Notes: Six shots of two pages.

or otherwise; and

4. To render aid to registrants in connection with applications for reopening cases.

The Director of the Draft for the City of New York and the Permanent Members are in full agreement that there must be close co-operation and cordial relations between the Exemption Boards and the Local Law Boards, both for the advantage of the Government and for the advantage of the registrants.

The Permanent Members do not assume to point out the particular manner in which Local Law Boards should continue their work. The object of this Bulletin is to call attention to the fact that, under the Regulations, the Boards must continue to advise registrants on all questions which may arise from time to time under the Law and Regulations.

The Chairmen of the Local Law Boards are requested to inform the Auxiliary Borough Boards of their plans for carrying on the above work. The Permanent Members will receive these reports through the Auxiliary Boards, and in that way will be in touch with the situation as it develops.

HENRY W. TAFT, Chairman;

JOHN M. BOWERS,

CHARLES A. BOSTON,

Permanent Members.

NOTICE OF MEETING.

The Chairmen of Local Law Boards in the City of New York are requested to attend a meeting of such Chairmen, to be held at the Association of the Bar of the City of New York, at No. 42 West Forty-fourth street, Borough of Manhattan, at 8 P.M., on Wednesday, January 23, 1918.

As business of great importance is to be considered it is hoped that all Chairmen can arrange to be present. Any Chairman who cannot attend is requested to arrange with another member of his Board to attend in his stead.

HENRY W. TAFT, Chairman;

JOHN M. BOWERS,

CHARLES A. BOSTON,

Permanent Members.

RECEIVER APPOINTED YESTERDAY

New York County.

CITY COURT.

By Justice VALENTE.

Catherine M. Hogan v. Mary C. Ward

— Stanhope Foster.

COURT NOTE.

UNITED STATES DISTRICT COURT.

SOUTHERN DISTRICT OF NEW YORK.

Until further notice Bankruptcy Motion Calendars and Discharges will be called on Wednesdays instead of Mondays.

the first term of the City Court of the City of New York shall be held on Mondays, and all terms appointed to begin on any of said Mondays and cases set for trial on any of said Mondays shall be postponed to the following day.

Dated New York, January 21, 1918.

FRANK J. GOODWIN,
Clerk.

ALUMNI ASSOCIATION OF THE SCHOOL OF COLUMBIA UNIVERSITY.

The annual meeting of the association will be held at the Columbia University Club (new building), No. 10 West 113th street, on the evening of Saturday, January 26, 1918, at 8:30 o'clock.

Victor Morawetz, Esq., has accepted the invitation of the association to address the meeting upon the subject "Financing of Our War," and hopes to be able to be present.

Charles P. Howland, Esq., who recently returned from Europe, where he was engaged with the problem of treatment of war prisoners, will give an informal address upon that subject, the provision to be made for the American prisoners of war.

The meeting will also be the occasion for the presentation to the Columbia University Club, on the behalf of H. A. Smyth Martin, of the Class of 1878 Law, the donor of an admirable portrait of the late Professor Theodore Dwight.

The usual annual elections of officers and members of the standing committee will be held. The board of directors of the Alumni Federation and of delegates to the convention to elect an alumni trustee will be held.

At the close of the meeting refreshments will be served.

GEORGE C. HOLT,
President.
JARVIS P. CARTER,
Secretary.

QUEENS COUNTY BAR ASSOCIATION.

The annual dinner of the Queens County Bar Association will be held at the Biltmore, New York City, Saturday evening, January 26, 1918, at 7 P.M., and given in honor of retiring Justice George J. Garretson, of the Supreme Court. Members of the Bar and other persons are invited to attend. Tickets may be obtained from Rodman Rensselaer, secretary, Queens County Bar House, Long Island City.

BANKRUPTCY PETITIONS.

Involuntary petitions have been filed against the following alleged bankrupts: Army & Navy Equipment Company, Inc., of No. 224 West Forty-second street; Thomas H. Mattus, Jr., has been appointed receiver of the concern.

Prospect Hat Works, of Nos. 162-164 Greene street.

Samuel Newman, wholesale baker, No. 991 Prospect avenue, Bronx.

LIS PENDENS.

Filed yesterday in County Clerk's office: BRONX COUNTY.

Lots 29 and 30 (part of), map of Village of Eltonia; Jane E. Reynolds v. James Reynolds, Jr., et al. (foreclosure of mortgage); attorney, L. Howlett, Bryant ave., No. 1439; Delia Kearney Huss v. George W. Muller et al. (foreclosure of mortgage); attorneys, Knox & Deignan.

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The Emma Goldman Papers

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Mr. Chief Justice WHITE delivered the opinion of the court.

We are here concerned with some of the provisions of the Act of May 18, 1917 (Public No. 12, 65th Congress, 1st sess., Stat. 4) entitled "An act to authorize the President to increase temporarily the military establishment of the United States." The law, as its opening sentence declares, was intended to supply temporarily the increased military force which was required by the existing emergency, the war then and now flagrant. The clauses we must pass upon and those which will throw light on their significance are briefly summarized.

The act proposed to raise a national army, first, by increasing the regular force to its maximum strength and there maintaining it; second, by incorporating into such army the members of the National Guard and National Guard Reserve already in the service of the United States (Act of Congress of June 5, 1916, chap. 134, 39 Stat., 211) and maintaining their organizations to their full strength; third, by giving the President power in his discretion to organize by volunteer enlistment four divisions of infantry; fourth, by subjecting all male citizens between the ages of twenty-one and thirty to duty in the national army for the period of the existing emergency after the proclamation of the President announcing the necessity for their service; and, fifth, by providing for selecting from the body so called, on the further proclamation of the President, 100,000 enlisted men, and a second body of the same number should the President in his discretion deem it necessary. To carry out its purposes the act made it the duty of those liable to the call to present themselves for registration on the proclamation of the President so as to subject themselves to the terms of the act, and provided full federal means for carrying out the Selective Draft. It gave the President in his discretion power to create local boards to consider claims for exemption for physical disability or otherwise made by those called. The act exempted from subjection to the draft designated United States and state officials as well as those already in the military or naval service of the United States, regular or duly ordained ministers of religion and theological students under the conditions provided for, and while relieving from military service in the strict sense the members of religious sects as enumerated whose tenets excluded the moral right to engage in war, nevertheless subjected such persons to the performance of service of a non-combatant character to be defined by the President.

The proclamation of the President calling the persons designated within the ages described in the statute was made and the plaintiffs in error who were in the class and under the statute were obliged to present themselves for registration and subject themselves to the law, failed to do so and were prosecuted under the statute for the penalties for which it provided. They all defended by denying that there had been conferred by the constitution upon Congress the power to compel military service by a selective draft, and if such power had been given by the constitution to Congress the terms of the particular act for various reasons caused it to be beyond

and in conflict with all the great guarantees of the constitution as to individual liberty, it must be assumed that the authority to raise armies was intended to be limited to the right to call an army into existence, counting alone upon the willingness of the citizen to do his duty in time of public need, that is, in time of war. But the premise of this proposition is so devoid of foundation that it leaves not even a shadow of ground upon which to base the conclusion. Let us see if it is not so. It is demonstrable, it may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need and the right to compel it (Vattel, Law of Nations, book III, c. 1 & 2). To do more than state the proposition is absolutely unnecessary, in view of the practical illustration afforded by the almost universal legislation to that effect now in force. (a) In England it is certain that before the Norman Conquest the duty of the great militant body of the citizens was recognized and enforceable (Blackstone, Book I, c. 13). It is unnecessary to follow the long controversy between Crown and Parliament as to the branch of the government in which the power resided, since there never was any doubt that it somewhere resided. So also it is wholly unnecessary to explore the situation for the purpose of fixing the source whence in England it came to be understood that the citizen or the force organized from the militia as such could not without their consent be compelled to render service in a foreign country, since there is no room to contend that such principle ever rested upon any challenge of the right of Parliament to impose compulsory duty upon the citizen to perform military duty wherever the public exigency exacted, whether at home or abroad. This is exemplified by the present English Service Act. (b).

In the Colonies before the separation from England there cannot be the slightest doubt that the right to enforce military service was unquestioned and that practical effect was given to the power in many cases. Indeed the brief of the government contains a list of Colonial Acts manifesting the power and its enforcement in more than two hundred cases. And this exact situation existed also after the separation. Under the Articles of Confederation it is true Congress had no such power as its authority was absolutely limited to making calls upon the states for the military forces needed to create and maintain the army, each state being bound for its quota as called. But it is undisputed that the states in re-

(a) In the argument of the Government it is stated: "The Statesman's Yearbook for 1917 cites the following governments as enforcing military service: Argentine Republic, p. 656; Austria-Hungary, p. 607; Belgium, p. 712; Brazil, p. 734; Bulgaria, p. 747; Bolivia, p. 728; Colombia, p. 760; Chili, p. 764; China, p. 770; Denmark, p. 811; Ecuador, p. 820; France, p. 841; Greece, p. 1001; Germany, p. 914; Guatemala, p. 1009; Honduras, p. 1016; Italy, p. 1038; Japan, p. 1064; Mexico, p. 1090; Montenegro, p. 1098; Netherlands, p. 1191; Nicaragua, p. 1142; Norway, p. 1152; Peru, p. 1191; Portugal, p. 1201; Roumania, p. 1220; Russia, p. 1240; Serbia, p. 1281; Siam, p. 1288; Spain, p. 1300; Switzerland, p. 1337; Salvador, p. 1270; Turkey, p. 1353." See also the recent Canadian Conscription Act, entitled "Military Service Act" of August 27, 1917, expressly providing for service abroad (printed in the Congressional Record of September 20, 1917, 53th Cong. Rec., p. 7959); the Conscription Law of the Orange Free State, Law No. 10, 1890; Military Service and Commando Law, sections 10 and 28; Laws of Orange River Colony, 1901, p. 855; of the South African Republic, "De Locale Wetten en Volksraadbesluiten der Zuid Afr. Republiek," 1898, Law No. 20, pp. 230, 233, article 0, 28; Constitution, German Empire, April 16, 1871, art. 67, 59; Dodd, 1 Modern Constitutions, p. 344; Gesetz betreffend Aenderungen der Wehrpflicht, vom 11 Febr., 1898, No. 1767, Reichs-Gesetzblatt, p. 11, amended by law of July 22, 1913, No. 4264, RGBl., p. 593; Loi sur le recrutement de l'armee of 15 July, 1889 (Duvergier, vol. 80, p. 440), modified by Act of 21 March, 1895 (Duvergier, vol. 105, p. 133).

(b) Military Service Act, January 27, 1916 (5 and 6 George V, chap. 104, p. 867), amended by the Military Service Act of May 26, 1916 (2d session, 4 and 7, George V, chap. 16, p. 83).

which would deprive Congress of the right to compel unless it can be said that although Congress had not the right to call because of state authority, the citizen had a right to obey the call and set aside state authority if he pleased to do so. And a like conclusion demonstrates the want of foundation for the contention that although it be within the power to call the citizen into the army without his consent, the army into which he enters after the call is to be limited in some respects to services for which the militia it is assumed may only be used, since this admits the appropriateness of the call to military service in the army, and the power to make it and yet destroys the purpose for which the call is authorized—the raising of armies to be under the control of the United States.

The fallacy of the argument results from confounding the constitutional provisions concerning the militia with that conferring upon Congress the power to raise armies. It treats them as one, while they are different. This is the militia clause:

"The Congress shall have power . . . to provide for calling forth the militia to execute the laws of the nation, suppress insurrections and repel invasions; to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress" (art. I, sec. 8).

The line which separates it from the army power is not only inherently plainly marked by the text of the two clauses, but will stand out in bolder relief by considering the condition before the constitution was adopted, and the remedy which it provided for the military situation with which it dealt. The right on the one hand of Congress under the confederation to call on the states for forces, and the duty, on the other, of the states to furnish when called, embraced the complete power of government over the subject. When the two were combined and were delegated to Congress all governmental power on that subject was conferred, a result manifested not only by the grant made but by the limitation expressly put upon the states on the subject. The army sphere, therefore, embraces such complete authority. But the duty of exerting the power thus conferred in all its plenitude was not made at once obligatory, but was wisely left to depend upon the discretion of Congress as to the arising of the exigencies which would call it in part or in whole into play. There was left, therefore, under the sway of the states undelegated the control of the militia to the extent that such control was not taken away by the exercise by Congress of its power to raise armies. This did not diminish the military power or curb the full potentiality of the right to exert it but left an area of authority requiring to be provided for (the militia area) unless and until by the exertion of the military power of Congress that area had been circumscribed or totally disappeared. This, therefore, is what was dealt with by the militia provision. It diminished the occasion for the exertion by Congress of its military power beyond the strict necessities for its exercise by giving the power to Congress to direct the organization and training of the militia (evidently to prepare such militia in the event of

(c) See also Constitution of Vermont (1777, chap. 1, art. 8; Thorpe, vol. 6, pp. 4747, 8740), New York (1777, art. 40; id., vol. 5, p. 2637), Massachusetts Bill of Rights (1780, art. 10; id., vol. 3, p. 1681), New Hampshire (1784, pt. 1, Bill of Rights, art. 12; id., vol. 4, p. 2457), Delaware (1776, art. 9; id., vol. 1, pp. 563, 564), Maryland (1770, art. 38; id., vol. 3, pp. 1686, 1686), Virginia (1776, Militia; id., vol. 7, p. 3817), Georgia (1777, art. 33, 35; id., vol. 2, pp. 777, 782).

(d) Journals of Congress (Ford's ed.), Library of Congress (vol. 7, pp. 262, 263; vol. 10, pp. 189, 200; vol. 13, p. 299); 7 Sparks, Writings of Washington (pp. 162, 167, 442, 444).

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the exercise of the army power), although leaving the carrying out of such command to the states. It further conduced to the same result by delegating to Congress the right to call on occasions which were specified for the militia force, thus again obviating the necessity for exercising the army power to the extent of being ready for every conceivable contingency. This purpose is made manifest by the provision preserving the organization of the militia so far as formed when called for such special purposes although subjecting the militia when so called to the paramount authority of the United States (Tarble's case, 12 Wallace, 397, 408). But because under the express regulations the power was given to call for specified purposes without exerting the army power, it cannot follow that the latter power when exerted was not complete to the extent of its exertion and dominant. Because the power of Congress to raise armies was not required to be exerted to its full limit, but only as in the discretion of Congress it was deemed the public interest required, furnishes no ground for supposing that the complete power was lost by its partial exertion. Because, moreover, the power granted to Congress to raise armies in its potentiality was susceptible of narrowing the area over which the militia clause operated affords no ground for confounding the two areas which were distinct and separate to the end of confusing both the powers and thus weakening or destroying both.

And upon this understanding of the two powers the legislative and executive authority has been exerted from the beginning. From the act of the first session of Congress carrying over the army of the government under the Confederation to the United States under the constitution (Act of September 29, 1789, chap. 23, 1 Stat. 95) down to 1812 the authority to raise armies was regularly exerted as a distinct and substantive power, the force being raised and recruited by enlistment. Except for one act formulating a plan by which the entire body of citizens (the militia) subject to military duty was to be organized in every state (Act of May 3, 1792, chap. 83, 1 Stat. 271) which was never carried into effect, Congress confined itself to providing for the organization of a specified number distributed among the states according to their quota to be trained as directed by Congress and to be called by the President as need might require (e). When the War of 1812 came the result of these two forces composed the army to be relied upon by Congress to carry on the war. Either because it proved to be weak in numbers or because of insubordination developed among the forces called and manifested by their refusal to cross the border (f) the government determined that the exercise of the power to organize an army by compulsory draft was necessary and Mr. Monroe, the Secretary of War (Mr. Madison being President) in a letter to Congress recommended several plans of legislation on that subject. It suffices to say that by each of them it was proposed that the United States deal directly with the body of citizens subject to military duty and call a designated number out of the population between the ages of 18 and 45 for service in the army. The power which it was recommended be exerted was clearly an unmixed federal power dealing with the subject from the sphere of the authority given to Congress to raise armies and not from the sphere of the right to deal with the militia as such, whether organized or unorganized. A bill was introduced giving effect to the plan. Opposition developed; but we need not stop to consider it because it substantially rested upon the incompatibility of compulsory military service with free government, a subject which from what we have said has been disposed of. Rescued before the bill was enacted.

and enforced—that of July, 1863; of February and March, 1864; of July and December, 1864—producing a force of about a quarter of a million men. (g) It is undoubted that the men thus raised by draft were treated as subject to direct national authority, and were used either in filling the gaps occasioned by the vicissitudes of war in the ranks of the existing national forces, or for the purpose of organizing such new units as were deemed to be required. It would be childish to deny the value of the added strength which was thus afforded. Indeed, in the official report of the provost marshal general, just previously referred to in the margin, reviewing the whole subject, it was stated that it was the efficient aid resulting from the forces created by the draft at a very critical moment of the civil strife which obviated a disaster which seemed impending and carried that struggle to a complete and successful conclusion.

Brevity prevents doing more than to call attention to the fact that the organized body of militia within the states as trained by the states under the direction of Congress became known as the National Guard (Act of January 21, 1902, chap. 192, 32 Stat. 775; National Defense Act of June 5, 1916, chap. 134, 39 Stat. 211). And to make further preparation from among the great body of the citizens an additional number to be determined by the President was directed to be organized and trained by the states as the National Guard Reserve (National Defense Act, supra).

Thus sanctioned as is the act before us by the text of the constitution, and by its significance as read in the light of the fundamental principles with which the subject is concerned, by the power recognized and carried into effect in many civilized countries, by the authority and practice of the colonies before the Revolution, of the states under the Confederation and of the government since the formation of the constitution, the want of merit in the contentions that the act in the particulars which we have been previously called upon to consider was beyond the constitutional power of Congress is manifest. Cogency, however, if possible, is added to the demonstration by pointing out that in the only case to which we have been referred where the constitutionality of the Act of 1863 was contemporaneously challenged on grounds akin to, if not absolutely identical with, those here urged, the validity of the act was maintained for reasons not different from those which control our judgment (Kneeder v. Lane, 45 Pa. St. 238). And as further evidence that the conclusion we reach is but the inevitable consequence of the provisions of the constitution as effect follows cause, we briefly recur to events in another environment. The seceding states wrote into the constitution which was adopted to regulate the government which they sought to establish in identical words the provisions of the Constitution of the United States which we here have under consideration. And when the right to enforce under that instrument a Selective Draft Law which was enacted not differing in principle from the one here in question was challenged, its validity was upheld evidently after great consideration by the courts of Virginia, of Georgia, of Texas, of Alabama, of Mississippi and of North Carolina, the opinions in some of the cases copiously and critically reviewing the whole grounds which we have stated (Burroughs v. Peyton, 16 Gratt. 470; Jeffers v. Enir, 33 Georgia, 347; Daly and Fitzgerald v. Harris, 33 Ga. Supp. 38, 54; Barber v. Irwin, 34 Georgia, 27; Parker v. Kaughman, 34 Georgia, 136; Ex parte Conpland, 26 Texas, 386; Ex parte Hill, 38 Alabama, 429; In re Emerson, 39 Alabama, 437; In re Pille, 39 Alabama, 459; Simmons v. Miller, 40 Mississippi, 19; Gattin v. Wal-

THE NEW YORK LAW

THE WORK IN THE COURTS.

Cases Tried—How Disposed of

CITY COURT—TRIAL TERM

PART I.

Before SCHMUCK, J.

Leon v. Bradley Cont. Co.—Schle & S. for plf; F. L. C. Keating for def. Dismissed.

Rothman v. Lipps—M. E. Robson plf; A. D. Fisk for def. Settled.

Friedman v. Neches—E. Mehl for H. Koppelman for def. Settled.

Busb v. Sheffield Farms-Slawson-Decker Co.—H. S. Fleischer for plf; Alger for def. Dismissed.

O'Dea v. Tribune Ass'n—D. C. Brock for plf; J. A. Hilton for def. Settled.

Tiven v. Weiss—S. Cohen for plf; M. McCormick for def. Settled.

Flabman v. Miller—L. Rosenberg plf; Reisfeld & C. for def. Settled.

Kohl v. Westcott Express Co.—W. Akman for plf; Carter, V. & M. for def. Settled.

Nachman v. Weiss—W. A. Altman plf; Carter, L. & M. for def. Dismissed.

Schechtman v. Leiser—L. Weckstein plf; W. Butler for def. Settled.

Moreton v. Shenk—J. Goldstein plf; Morrison & S. for def. Settled.

Mistofsky v. Sheffield Farms-Slawson-Decker Co.—J. Goldstein for plf; Alger & S. for def. Settled.

Bernstein v. Cohen—M. Leight for plf; M. Berg for def. Sent to next Call Calendar.

Lederer v. Park—D. L. Podell for plf; J. T. Berman for def. Sent to General Calendar.

Richter v. Blum—J. Goldstein for plf; B. Henney for def. Settled.

Hechtkopf v. Marell Chemical Co.—R. Bernstein for plf; J. Kirschenbaum for def. Dismissed.

Conabee v. Tursi—Silverman & T. for plf; L. H. Moos for def. Judgment for plaintiff for \$1,248.37.

Franz v. Interborough R. T. Co.—Morris for plf; J. L. Quackenbush for def. Sealed verdict ordered.

Sinatra v. Cohen—G. H. Droege for plf; A. E. Holmes for def. Case unfinished.

Jentzer v. N. Y. Rys—E. Van Derno for plf; J. L. Quackenbush for def. Case unfinished.

CITY COURT—TRIAL TERM

PART II.

Before ALLEN, J.

Parola Mfg. Co., Inc. v. C. P. Chemical Co., Inc.—D. R. Bernstein for plf; H. M. Peyer for def. Verdict directed for defendant.

Livingston Radiator & Mfg. Co. v. Chinitz—Knox & D. for plf; A. P. Wilke for def. Adjourned to January 23 at 10 A.M.

Kane v. Auto Laka Mfg. Co.—S. Goodelman for plf; M. H. Rothstein for def. Passed to January 22 at 10 A.M.

Wentworth v. Reisenweber's, Inc.—M. Lippman for plf; J. Wilzin for def. Case unfinished.

CITY COURT—TRIAL TERM

PART III.

Before FINELITE, J.

Jacobson v. Vogel—J. Gainsburg for plf; G. Tolleris for def. Settled.

Bacon v. Driggs Ordnance Co.—J. wa & B. for plf; Hays, K. & L. for def. Settled.

Shapiro v. Berzinsky—A. Lichtig for plf; O. Goldenberg for def. Discontinued.

Fodor v. Zeitlin—Hart, L. W. & S. for plf; E. J. Mangan for def. Sent to General Calendar.

Calendar clear.

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subject to say that by each of them it was proposed that the United States deal directly with the body of citizens subject to military duty and call a designated number out of the population between the ages of 18 and 45 for service in the army. The power which it was recommended be exerted was clearly an unimpaired federal power dealing with the subject from the sphere of the authority given to Congress to raise armies and not from the sphere of the right to deal with the militia as such, whether organized or unorganized. A bill was introduced giving effect to the plan. Opposition developed, but we need not stop to consider it because it substantially rested upon the incompatibility of compulsory military service with free government, a subject which from what we have said has been disposed of. Peace came before the bill was enacted.

Down to the Mexican War the legislation exactly portrayed the same condition of mind which we have previously stated. In that war, however, no draft was suggested, because the army created by the United States immediately resulting from the exercise by Congress of its power to raise armies, that organized under its direction from the militia and the volunteer commands which were furnished, proved adequate to carry the war to a successful conclusion.

So the course of legislation from that date to 1861 affords no ground for any other than the same conception of legislative power which we have already stated. In that year when the mutterings of the great conflict which was to come began to be heard, and the Proclamation of the President calling a force into existence was issued, it was addressed to the body organized out of the militia and trained by the states in accordance with the previous acts of Congress (Proclamation of April 15, 1861, 12 Stat., 1238). That force being inadequate to meet the situation, an act was passed authorizing the acceptance of 500,000 volunteers by the President to be by him organized into a national army (Act of July 22, 1861, c. 9, 12 Stat., 268). This was soon followed by another act increasing the force of the militia to be organized by the states for the purpose of being drawn upon when trained under the direction of Congress (Act of July 29, 1861, c. 25, 12 Stat., 281), the two acts when considered together presenting in the clearest possible form the distinction between the power of Congress to raise armies and its authority under the militia clause. But it soon became manifest that more men were required. As a result the Act of March 3, 1863 (c. 75, 12 Stat. 731), was adopted entitled "An Act for enrolling and calling out the National Forces and for other purposes." By that act, which was clearly intended to directly exert upon all the citizens of the United States the national power which it had been proposed to exert in 1814 on the recommendation of the then Secretary of War, Mr. Monroe, every male citizen of the United States between the ages of twenty and forty-five was made subject by the direct action of Congress to be called by compulsory draft to service in a national army at such time and in such numbers as the President, in his discretion, might find necessary. In that act, as in the one in 1814 and in this one, the means by which the act was to be enforced were directly federal, and the force to be raised as a result of the draft was therefore typically national, as distinct from the call into active service of the militia as such. And under the power thus exerted four separate calls for draft were made by the President

force under that instrument a Selective Draft Law which was enacted not differing in principle from the one here in question was challenged, its validity was upheld evidently after great consideration by the courts of Virginia, of Georgia, of Texas, of Alabama, of Mississippi and of North Carolina, the opinions in some of the cases copiously and critically reviewing the whole grounds which we have stated (*Burroughs v. Peyton*, 16 Grant, 470; *Jeffers v. Fair*, 23 Georgia, 342; *Daly and Fitzgerald v. Harris*, 23 Ga. Supp., 38, 54; *Barber v. Irwin*, 34 Georgia, 27; *Parker v. Kaughman*, 34 Georgia, 136; *Ex parte Comblund*, 26 Texas, 386; *Ex parte Hill*, 28 Alabama, 429; *In re Emerson*, 39 Alabama, 437; *In re Pille*, 49 Alabama, 459; *Sammons v. Miller*, 40 Mississippi, 19; *Gatlin v. Walton*, 60 N. C., 333, 409).

In reviewing the subject we have hitherto considered it as it has been argued from the point of view of the constitution as it stood prior to the adoption of the Fourteenth Amendment. But to avoid all misapprehension, we briefly direct attention to that amendment for the purpose of pointing out, as has been frequently done in the past, (h) how completely it broadened the national scope of the government under the constitution by causing citizenship of the United States to be paramount and dominant instead of being subordinate and derivative, and therefore, operating as it does upon all the powers conferred by the constitution, leaves no possible support for the contentions made if their want of merit was otherwise not so clearly made manifest.

It remains only to consider contentions which, while not disputing power, challenge the act because of the repugnancy to the constitution supposed to result from some of its provisions. First, we are of opinion that the contention that the act is void as a delegation of federal power to state officials because of some of its administrative features is too wanting in merit to require further notice. Second, we think that the contention that the statute is void because vesting administrative officers with legislative discretion has been so completely adversely settled as to require reference only to some of the decided cases (*Field v. Clark*, 143 U. S., 649; *Butfield v. Stranahan*, 192 U. S., 476; *First Nat. Bank v. Union Trust Co.*, 244 U. S., 418). A like conclusion also adversely disposes of a similar claim concerning the conferring of judicial power (*Butfield v. Stranahan*, 192 U. S., 476, 497; *West v. Hitchcock*, 205 U. S., 80; *Ocean Navigation Co. v. Stranahan*, 214 U. S., 220, 338-340; *Zakonaite v. Wolf*, 226 U. S., 272, 275). And we pass without anything but statement the proposition that an establishment of a religion or an interference with the free exercise thereof repugnant to the First Amendment resulted from the exemption clauses of the act, to which we at the outset referred, because we think its unsoundness is too apparent to require us to do more.

Finally, as we are unable to conceive, upon what theory the exaction by government from the citizen of the performance of his supreme and noble duty of contributing to the defense of the rights and honor of the nation as the result of a war declared by the great representative body of the people can be said to be the imposition of involuntary servitude in violation of the prohibitions of the Thirteenth Amendment, we are constrained to the conclusion that the contention to that effect is refuted by its mere statement.

Affirmed.

(p) Historical Report, Enrollment Branch, Provost Marshal-General's Bureau, March 17, 1866.
(h) *Slaughter House Cases* (16 Wall., 86, 72-74, 24-25, 412-413), *United States v. Dralshank* (92 U. S., 642, 649), *Boyd v. Thayer* (143 U. S., 135, 140), *McPherson v. Blacker* (146 U. S., 1, 37).

Lippman for plf.; J. Wilson for def. Case unfinished.

CITY COURT—TRIAL TERM, PART III.

Before FINEGATE, J.

Jacobson v. Vogel—T. Gainsburg for plf.; C. Tolleris for def. Settled.
Bacon v. Briggs—O'Donnell for plf.; wa & B. for plf.; Hays, K. & L. for def. Settled.
Shapiro v. Berzinsky—A. Lichtig for plf.; C. Goldenberg for def. Discontinued.
Fedor v. Zeitlin—Hart, L. W. & S. for plf.; E. J. Magan for def. Sent to General Calendar.
Calendar clear.

CITY COURT—TRIAL TERM, PART IV.

Before SMITH, J.

Lightner v. Hartmann-Blanchard Co. Inc.—N. L. Bowman for plf.; C. Stenart for def. Case unfinished.
Wangrow v. Wangrow—N. R. Wachtell for plf.; A. W. Levy for def. Case unfinished.

CITY COURT—TRIAL TERM, PART V.

Before ZETTER, J.

Sohn v. J. W. Horton Ice Cream Co.—A. M. Fitch for plf.; B. L. Pettigrew for def. Settled during trial.
Same v. Same—Same att'ys. Settled during trial.
Minguire v. Oberman—P. M. Crandall for plf.; G. D. Zahn for def. Case unfinished.
Cardill v. Scopelliti—F. P. Quinella for plf.; E. J. Herbst for def. Case unfinished.

CITY COURT—TRIAL TERM, PART VI.

Before ODWELL, C.J.

Tager v. N. Y. Cons. RR.—C. Steinberg for plf.; G. B. Yeomans for def. Verdict for defendant.
Safran v. Sachs—Schlesinger & N. for plf.; I. Gainsburg for def. Case unfinished.
Sillman v. Schiff—Breitbart & B. for plf.; A. D. Fisk for def. Case unfinished.

CITY COURT—TRIAL TERM, PART VII.

Before LA FETRA, J.

Lynch v. Ginzberg—G. B. Hayes for plf.; N. L. Rosenberg for def. Complaint dismissed.
Barthold Michels Son Co. v. Steinberg, Z. & C. for plf.; E. L. Sh. for def. Complaint dismissed.
Miranda v. Winteritz—H. H. Miller for plf.; Phillips, M. & W. for def. Ad-journed to January 25, 1918.
Kaplan v. Nichols—E. P. Korkus for plf.; B. L. Pettigrew for def. Case unfinished.

CITY COURT—TRIAL TERM, PART VIII.

Before WALSH, J.

Zanger v. Interborough R. T. Co.—A. Harris for plf.; J. L. Quackenbush for def. Case unfinished.

COUNTY COURT—(BRONX COUNTY)—TRIAL TERM, PART IX.

Before GIBBS, J.

Jusrik v. Interborough R. T. Co.—J. Horvorka for plf.; J. E. Quackenbush for def. Settled and discontinued.
Silverstein v. Union R. Co.—A. Harris for plf.; A. T. Davison for def. Settled and discontinued.
Ryan v. Wormser—J. Gordon for plf.; O. D. Parker for def. Settled and discontinued.

BEST COPY AVAILABLE

810113170

The Emma Goldman Papers

[Letter] 1918 Jan. 22 [Washington, D.C. to] Francis G. Caffey, United States Attorney [Department of Justice], New York / John Lord O'Brian, Special Assistant to [the] Attorney General [Department of Justice]. — 1 p.; 36 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: O'Brian asks for a copy of a letter to Berkman asking for help in the Indian fight against the British.

Notes: For reply, see 810113171. For Caffey's letter mentioned, see 810113168. For related documents, see 810113172 through 810113174.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

JLO'B-HC

186233-13 -

January 22nd, 1918

Francis G. Caffey, Esq.,

United States Attorney

New York City

Sir:

Will you kindly furnish the Department with a copy of the letter referred to on page four of your communication of January 18th, which was a letter written by a Hindu to Alexander Berkman. The writer was under the impression that there was a letter somewhat similar to this addressed to Emma Goldman herself. Is this correct?

Respectfully,

For the Attorney General

(Signed) John Lord O'Brian

Special Assistant to Attorney General.

186233-13-99

The Emma Goldman Papers

[Memorandum] 1918 Jan. 23, New York [to] R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department], Washington, D.C. / Nicholas Biddle, Military Intelligence [Division, War Department].— 1 p.; 27 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Major Biddle forwards a plan of organization of a society to which Lilly Winner and Louis Witzenkorn belong.

Notes: For enclosure, see 870723000.

5870-LC

OFFICE OF
MILITARY INTELLIGENCE
ROOM NO. 806
302 BROADWAY
NEW YORK CITY

1. 6 m
10110-524/3
32
WAR DEPARTMENT
Jpa

January 23, 1918.

FROM: Major Nicholas Biddle,
TO: Colonel R. H. Van Deman, Chief, Military Intelligence Section,
Washington, D. C.
SUBJECT: Emma Goldman and Others (Miss. Winner - Louis Witzenkorn)

1. I attach herewith copy of the Plan of Organization of one of the societies of which Louis Witzenkorn and Lily Winner are members. Your file #10110-524 refers to this matter.

Nicholas Biddle
Major, Sig.R.C., A.S.

WLC/d

Enclosure-1

10110-524/3

12

The Emma Goldman Papers

[Memorandum] 1918 Jan. 23, San Francisco [to A.P. Niblack] Director [Office of] Naval Intelligence [Navy Department], Washington, D.C. / W[illia]m [C.] Van Antwerp, Officer in Charge, Branch Naval Intelligence Office, Navy Department.— 1 p.; 27 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: Van Antwerp submits a report on Hugh McClellan, suspected of radical associations.

Notes: For enclosure, see 800519006. For related reports, see 800519002 and 800519007.

NAVY DEPARTMENT OFFICE OF NAVAL INTELLIGENCE

BRANCH OFFICE
BALBOA BUILDING
SAN FRANCISCO, CAL.

CONFIDENTIAL

VA/FAK

January 23, 1918.

From: Officer-in-Charge, Branch Naval Intelligence Office, San Francisco

To: Director of Naval Intelligence

SUBJECT: HUGH CIMORE McCLELLAN

REFERENCE: OUR REPORT DECEMBER '10, #0108; YOUR INSTRUCTIONS DECEMBER 24, 20940-98 AND YOUR INSTRUCTIONS JANUARY 14, 20940-98, SECTION A-2.

1. Attached hereto is final report on this matter which solves the problem.

2. Since this report McClellan's father has had a telegram from his son stating that he is employed on the staff of the Washington Times, Washington, D. C.

Wm C. Van Antwerp

OFFICE OF
NAVAL INTELLIGENCE.

Recd



JAN 30 1918

The Emma Goldman Papers

[Memorandum] 1918 Jan. 23, San Francisco [to William C. Van Antwerp] Officer in Charge [Branch] Naval Intelligence [Office, Navy Department, San Francisco] / Fred A. Purner, Office of Naval Intelligence [Navy Department].— 2 p. ; 27 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: Fred Purner describes the radical associations of Hugh McClellan, a former paymaster in the Naval Reserves.

Notes: Enclosed with 800519005. For related reports, see 800519002 and 800519007

San Francisco, Cal., January 23, 1918.

FROM Fred A. Purner, yeoman, first class, assigned to Office of Naval Intelligence.

TO Officer in charge of Naval Intelligence.

SUBJECT---HUGH CIMORE MC CLELLAN.

REFERENCE---Ordered investigation from Washington, Jan. 14, 1918.

1.---Hugh Cimore Mc Clellan was assistant paymaster, Philadelphia Navy Yard, in naval reserves for five or six months. This was some time early in 1917. Received appointment through influence of his Uncle, Eugene Dewey Ryan, who is pay director at Philadelphia Navy Yard, filling position of supply officer. Attended pay officers' school at Washington D.C. for five or six months. Sustained injury and was confined for a time in Navy hospital at Washington D.C. By reason of injury or failure to pass examination, Mc Clellan was honorably discharged December 1, 1917.

2.--Above information is furnished by John H. Mc Clellan, the father who lives at 154 Delmar street, S.F., Cal. Last word father heard from Hugh was a letter written from Washington D.C. on Dec. 25, 1917. Hugh mentioned his disappointment over failure to win commission and intimated that he was going to France in some capacity. No address was given and Father is now endeavoring to locate his son and will report to this office.

3.--Hugh C. Mc Clellan is newspaper man who has been working on different papers throughout the middle west and the East for the last two years. He left San Francisco in September or October of 1916. Worked here for a year or so on the Daily News, a publication that caters to the laboring class. Had a reputation as a radical socialist and for a time was viewed with alarm by his friends. Just before leaving for East, however, his friends and associates on the Daily News state that Mc Clellan underwent a change in his views and talks.

4.-- Mc Clellan was a personal friend of Alexander Berkman, Tom Mooney, Emma Goldman and other radicals. First became acquainted with Tom Mooney, through Lester Gillen, now a reporter on The Chronicle. Gillen was covering labor beat for Daily News and was close to Mooney. This was on July 14, 1916, when Mooney attempted to engineer a car strike in San Francisco. Mc Clellan worked on the story with Gillen and from then on was a frequent companion of Mooney, Berkman and other radical socialists. Was a great admirer and friend of Emma Goldman and knew Warren K. Billings. Talked freely of the doings and actions of the socialists and was made the subject of many comments over his dynamiting ideas. In the main, Mc Clellan was put down as easily influenced by his older companions. Later he did not talk so much and in his

The Emma Goldman Papers

[Memorandum] 1918 Jan. 23, San Francisco [to William C. Van Antwerp] Officer in Charge [Branch] Naval Intelligence [Office, Navy Department, San Francisco] / Fred A. Purner, Office of Naval Intelligence [Navy Department].— 2 p. ; 27 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 38.

Summary: Fred Purner describes the radical associations of Hugh McClellan, a former paymaster in the Naval Reserves.

Notes: Enclosed with 800519005. For related reports, see 800519002 and 800519007

-----2-----

letters from the East since his departure he has not discussed his socialist ideas.

5.--Mc Clellan left here in September or October of 1916 before the activities of Mooney, Berkman and others in the preparedness day exposition and no information is available to connect him with his former friends and associates.

Fred A. Purner

The Emma Goldman Papers

[Letter] 1918 Jan. 23 [Washington, D.C. to] D[on] S. Rathbun [Agent in Charge, Bureau of Investigation, Department of Justice], San Francisco / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 19 × 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Rathbun to investigate Collier, Goldman's associate, and try to get copies of his letters from Goldman.

Notes: Dark copy; barely legible. For enclosure, see 880928021.

ABB
ALS

January 23, 1918.

D. S. Rathbun, Esq.,
Federal Building,
San Francisco, Cal.

Dear Sir:

I enclose herewith, for your information and such attention as may be practicable, copy of a letter from the office of the United States Attorney, San Francisco, regarding the activities of one Collier, a radical associated with Emma Goldman.

I assume this information is from the same informant whose reliability we have considerable reason to doubt, but you should nevertheless give this matter every possible attention, and, if practicable, secure copies of any correspondence which Collier has received or may receive from Emma Goldman.

Very truly yours,

Chief.

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Letter] 1918 Jan. 23 [Washington, D.C. to] H[inton] G. Clabaugh [Division Superintendent, Bureau of Investigation, Department of Justice], Chicago / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Clabaugh to investigate Collier, an associate of Goldman. He thinks the information on Collier is untrustworthy.

Notes: Broken type; barely legible. For enclosure, see 880928021.

ABD
ALS

January 23, 1918.

H. G. Clabaugh, Esq.
Box 455,
Chicago, Illinois.

Dear Sir:

I enclose herewith, for your information,
a letter from the office of Naval Intelligence
concerning the activities of Collier, a
close associate of Emma Goldman.

Information in relation to from the same
in connection with Collier has been considerable
and it is felt, that you should nevertheless give
this matter every possible attention, and, if
practicable, secure copies of any correspondence
which Collier has received or may receive from
Emma Goldman.

Very truly yours,

Chief.

The Emma Goldman Papers

[Letter] 1918 Jan. 23 [Washington, D.C. to] E.M. Blanford [Agent in Charge? Bureau of Investigation, Department of Justice], Los Angeles / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 19 × 15 cm.

Obtained from the United States National Archives, Institutional Location: Record Group 65.

Summary: Bielaski asks Blanford to investigate Collier, Goldman's associate, and try to get copies of his letters from Goldman.

Notes: Portions illegible. For enclosure, see 880928021.

ABB
ALS

January 23, 1918.

E. M. Blanford, Esq.,
Box 694,
Los Angeles, Cal.

Dear Sir:

I enclose with you for your information
and your attention a copy of a letter from the office of Naval Intelligence
concerning the activities of one Collier, a radical
associated with Emma Goldman.

I assume this information is from the same
informant whose reliability we have considerable
reason to doubt, but you should nevertheless give
this matter every possible attention, and, if
practicable, secure copies of any correspondence
which Collier has received or may receive from
Emma Goldman.

Very truly yours,

Chief.

BEST COPY AVAILABLE

431

The Emma Goldman Papers

[Letter] 1918 Jan. 23 [Washington, D.C. to] William M. Offley [Division Superintendent, Bureau of Investigation, Department of Justice], New York / [A. Bruce Bielaski] Chief [Bureau of Investigation, Department of Justice]. — 1 p. ; 19 × 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks Offley to investigate Collier, an associate of Goldman. He thinks the information on Collier is untrustworthy.

Notes: Broken type; barely legible. For enclosure, see 880928021.

ABB
ALS

January 23, 1918.

William M. Offley, Esq.,
Box 441,
New York, N. Y.

Dear Sir:

I enclose herewith, for your information and quotation in your report, a copy of a letter from the Office of the Intelligence Service, the British Intelligence, dated January 18, 1918, which was received by the British.

I cannot find out the name of the person in contact with the British, but a considerable reason to doubt, but you should nevertheless give this matter every possible attention, and, if practicable, secure copies of any correspondence which Collier has received or may receive from Emma Goldman.

Very truly yours,

Chief.

BEST COPY AVAILABLE

432

The Emma Goldman Papers

[Letter] 1918 Jan. 23, New York [to] James D. Maher, Clerk, United States Supreme Court, Washington, D.C. / Harry Weinberger. — 1 p. ; 28 × 21 cm.

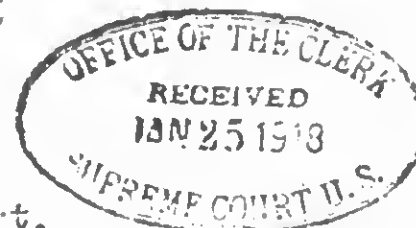
Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Weinberger sends his petition for a rehearing in Goldman's appeal to the Supreme Court.

Notes: For enclosure, see 850806219. For reply, see 850712490.

HARRY WEINBERGER
COUNSELLOR AT LAW
301 BROADWAY, NEW YORK
TELEPHONE CONNECTION

January 23rd, 1918



James D. Maher, Esq.,
Clerk, United States Supreme Court,
Washington, D.C.

Dear Sir:-

I send you herewith original petition for a rehearing duly signed by me, and under separate cover I am sending you by parcel post thirty copies of the petition for a rehearing to be submitted to the Justice of the Supreme Court in the case of Emma Goldman and Alexander Berkman against the United States, No. 702.

Thanking you, I am

Respectfully yours,

Enc.

BEST COPY AVAILABLE

433

The Emma Goldman Papers

[Letter] 1918 Jan. 23, New York [to] John W. Davis, Solicitor General, Department of Justice, Washington, D.C. / Harry Weinberger. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Weinberger sends Davis three copies of his petition for rehearing in Goldman and Berkman's Supreme Court appeal.

Notes: For enclosure, see 850806219. For reply, see 850712220.

C O P Y
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

HARRY WEINBERGER
COUNSELOR AT LAW
201 BROADWAY, NEW YORK
TELEPHONE CONNECTION

January 23rd, 1918

Hon. John W. Davis,
Solicitor General,
Department of Justice,
Washington, D.C.

Dear Sir:-

I send you herewith three copies of petition for a rehearing in the case of Emma Goldman and Alexander Berkman against the United States, this day sent to the Clerk of the United States Supreme Court for submission to the Justices of the Supreme Court.

Respectfully yours,

Harry Weinberger

The.

FILE ROOM

petitions for rehearing

retained for Solicitor General's

office

JAN 26 1918

186233-13-103
DEPARTMENT OF JUSTICE
JAN 25 1918
MAILS
SOLICITOR GENERAL

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] / Harry Weinberger. — 4 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Weinberger petitions for a rehearing in Goldman's case to argue that the government did not prove one element of a composite indictment and that the court's refusal to postpone the trial was erroneous.

Notes: Four shots of five pages. Enclosed with 810113339, 810206042, and 810206047. For copy, see 810206044. Date assigned by Yale University Library.

c 1918 Jan 14

IN THE

Supreme Court of the United States

OCTOBER TERM, 1917.

EMMA GOLDMAN and ALEXANDER
BERKMAN,
Plaintiffs-in-Error,
against

THE UNITED STATES OF AMERICA,
Defendant-in-Error.

No. 702.

PETITION FOR REHEARING

HARRY WEINBERGER,
Attorney for Emma Goldman and
Alexander Berkman,
Plaintiffs-in-Error.

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] / Harry Weinberger. — 4 p. ; 28 × 22 cm.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1917.

EMMA GOLDMAN and ALEXANDER
BERKMAN,
Plaintiffs-in-Error,

against

THE UNITED STATES OF AMERICA,
Defendant-in-Error.

No. 702.

*To the Honorable Supreme Court of the United
States:*

Now comes Emma Goldman and Alexander Berkman, plaintiffs-in-error, and petition for a limited rehearing in this case, and for grounds of this petition say:

The opinion and judgment of this Court rendered on the 14th day of January, 1918, affirmed the judgment below in this case. The Court, though stating that plaintiffs-in-error were charged with violating Sections 37 and 332 of the Criminal Code and the Selective Draft Law, wholly overlooks and gives no effect in its opinion to Section 332. *There is only one count in the indictment*, and the statutes violated, as stated in the indictment, are "Sections 37 and 332, U. S. C. C., and Section 5 of the Act of May 18, 1917."

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] / Harry Weinberger. — 4 p. ; 28 × 22 cm.

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Notes: Four shots of five pages. Enclosed with 810113339, 810206042, and 810206047. For copy, see 810206044. Date assigned by Yale University Library.

2

Section 332 absolutely requires, for the purpose of a conviction or for the stating of a crime in an indictment, the proof and allegation of the guilt of a principal and the allegation and proof that plaintiffs-in-error were the cause of said guilt. If Section 332 had been omitted, the indictment would have been solely a conspiracy indictment. *But Section 332 was not omitted from the indictment.* Some effect must be given to this section. Ignoring or overlooking Section 332 does not answer the contention of the plaintiffs-in-error in reference thereto, and I respectfully ask that I be allowed to reargue this contention. The calling of the indictment a conspiracy indictment does not make it one.

To properly state the crime in one count, inasmuch as three statutes are alleged to have been violated, the indictment should have read that plaintiffs-in-error conspired to become and did become accessories before the fact, and that the fact did happen that a principal failed to register because of the acts of the plaintiffs-in-error. The indictment should have alleged the person or persons who failed to register. The evidence should have shown it was a fact. The plaintiffs-in-error therefore contend that the indictment does not state an offense and the evidence does not prove the crime charged.

I respectfully submit that the Court in its opinion mistakes my argument entirely, when it states that I contended that a crime of conspiracy is not committed if the illegal end was not accomplished, even if overt acts are proven. I respectfully contend and desire to reargue, so as to show more fully and plainly that the indictment was not a conspiracy indictment but one charging plaintiffs-in-error as principals (plaintiffs-in-error being charged as accessories). And it is because of the

3

fact that the indictment is not a conspiracy indictment that I contend and believe that there must be an accomplishment of the illegal end before the crime can be considered proved or an indictment considered sufficient as an allegation of a violation of Section 332. I believe that this kind of an indictment, with one count, has never been before this Court. I would like, if a rehearing is granted, to fully exhaust the authorities, so that the question may be properly settled by this Court.

I respectfully submit that the Court erred in not considering my contentions concerning the abuse of discretion by the Court below in ruling on an application to postpone the trial, which was not referred to in my assignment of error.

I respectfully submit, when it is considered that the plaintiffs-in-error were immediately sent to prison from the court room at the end of their trial, which was contrary to the unvarying practice in all United States District Courts, and the Trial Judge refused to grant a stay or writ of error pending appeal, so that in order to obtain plaintiffs-in-error's release from prison the application for a writ of error and the filing of the assignments of error had to be done hurriedly and without the stenographic record of the trial, yet the error is so plain and the injustice so great that under the decisions of this Court, which I would fully urge on a reargument, it was the duty of the Supreme Court to consider this apparent error, though not mentioned in the assignment of error (see *Weems v. U. S.*, 217 U. S., 349; *Columbia Heights Realty Co. v. Rudolph*, 217 U. S., 547), and to reverse the conviction because of the abuse of discretion by the Court below in refusing an application to postpone the trial in order for plaintiffs-in-error to properly prepare, and because plaintiff-in-error Alexander

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] / Harry Weinberger. — 4 p. ; 28 × 22 cm.

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Notes: Four shots of five pages. Enclosed with 810113339, 810206042, and 810206047. For copy, see 810206044. Date assigned by Yale University Library.

4

Berkman, shown by a doctor's certificate submitted to the Trial Court, was suffering physical agony when forced to trial.

WHEREFORE, I respectfully pray that the petition for a limited rehearing should be granted.

A copy of this petition has been mailed to counsel for the defendant-in-error.

Respectfully submitted,

HARRY WEINBERGER,
Attorney for Emma Goldman and
Alexander Berkman,
Plaintiffs-in-Error.

I hereby certify that in my opinion the foregoing petition is well founded in law and fact and not made for the purpose of delay.

HARRY WEINBERGER,
Attorney for Emma Goldman and
Alexander Berkman,
Plaintiffs-in-Error.

[13299]

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] /
Harry Weinberger. — 4 p. ; 18 × 25 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Signed copy of 850806219.

702
26

OFFICE OF THE CLERK
RECEIVED
JAN 25 1918
U. S. SUPREME COURT

IN THE
Supreme Court of the United States
OCTOBER TERM, 1917.

EMMA GOLDMAN and ALEXANDER
BERKMAN,
Plaintiffs-in-Error,
against
THE UNITED STATES OF AMERICA,
Defendant-in-Error.

No. 702.

PETITION FOR REHEARING

HARRY WEINBERGER,
Attorney for Emma Goldman and
Alexander Berkman,
Plaintiffs-in-Error.

439

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] /
 Harry Weinberger. — 4 p. ; 18 × 25 cm.
 Obtained from the United States National Archives. Institutional Location: Record Group 267.
 Notes: Signed copy of 850806219.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1917.

EMMA GOLDMAN and ALEXANDER
 BERKMAN,
 Plaintiffs-in-Error,
 against

No. 702.

THE UNITED STATES OF AMERICA,
 Defendant-in-Error.

*To the Honorable Supreme Court of the United
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Now comes Emma Goldman and Alexander Berkman, plaintiffs-in-error, and petition for a limited rehearing in this case, and for grounds of this petition say:

The opinion and judgment of this Court rendered on the 14th day of January, 1918, affirmed the judgment below in this case. The Court, though stating that plaintiffs-in-error were charged with violating Sections 37 and 332 of the Criminal Code and the Selective Draft Law, wholly overlooks and gives no effect in its opinion to Section 332. *There is only one count in the indictment*, and the statutes violated, as stated in the indictment, are "Sections 37 and 332, U. S. C. C., and Section 5 of the Act of May 18, 1917."

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] /

Harry Weinberger. — 4 p. ; 18 × 25 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Signed copy of 850806219.

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Section 332 absolutely requires, for the purpose of a conviction or for the stating of a crime in an indictment, the proof and allegation of the guilt of a principal and the allegation and proof that plaintiffs-in-error were the cause of said guilt. If Section 332 had been omitted, the indictment would have been solely a conspiracy indictment. *But Section 332 was not omitted from the indictment.* Some effect must be given to this section. Ignoring or overlooking Section 332 does not answer the contention of the plaintiffs-in-error in reference thereto, and I respectfully ask that I be allowed to reargue this contention. The calling of the indictment a conspiracy indictment does not make it one.

To properly state the crime in one count, inasmuch as three statutes are alleged to have been violated, the indictment should have read that plaintiffs-in-error conspired to become and did become accessories before the fact, and that the fact did happen that a principal failed to register because of the acts of the plaintiffs-in-error. The indictment should have alleged the person or persons who failed to register. The evidence should have shown it was a fact. The plaintiffs-in-error therefore contend that the indictment does not state an offense and the evidence does not prove the crime charged.

I respectfully submit that the Court in its opinion mistakes my argument entirely, when it states that I contended that a crime of conspiracy is not committed if the illegal end was not accomplished, even if overt acts are proven. I respectfully contend and desire to reargue, so as to show more fully and plainly that the indictment was not a conspiracy indictment but one charging plaintiffs-in-error as principals (plaintiffs-in-error being charged as accessories). And it is because of the

3

fact that the indictment is not a conspiracy indictment that I contend and believe that there must be an accomplishment of the illegal end before the crime can be considered proved or an indictment considered sufficient as an allegation of a violation of Section 332. I believe that this kind of an indictment, with one count, has never been before this Court. I would like, if a rehearing is granted, to fully exhaust the authorities, so that the question may be properly settled by this Court.

I respectfully submit that the Court erred in not considering my contentions concerning the abuse of discretion by the Court below in ruling on an application to postpone the trial, which was not referred to in my assignment of error.

I respectfully submit, when it is considered that the plaintiffs-in-error were immediately sent to prison from the court room at the end of their trial, which was contrary to the unvarying practice in all United States District Courts, and the Trial Judge refused to grant a stay or writ of error pending appeal, so that in order to obtain plaintiffs-in-error's release from prison the application for a writ of error and the filing of the assignments of error had to be done hurriedly and without the stenographic record of the trial, yet the error is so plain and the injustice so great that under the decisions of this Court, which I would fully urge on a reargument, it was the duty of the Supreme Court to consider this apparent error, though not mentioned in the assignment of error (see *Weems v. U. S.*, 217 U. S., 349; *Columbia Heights Realty Co. v. Rudolph*, 217 U. S., 547), and to reverse the conviction because of the abuse of discretion by the Court below in refusing an application to postpone the trial in order for plaintiffs-in-error to properly prepare, and because plaintiff-in-error Alexander

The Emma Goldman Papers

Goldman [&] Berkman [v.] United States: Petition for Rehearing [1918 Jan. 23?] /
Harry Weinberger. — 4 p. ; 18 × 25 cm.

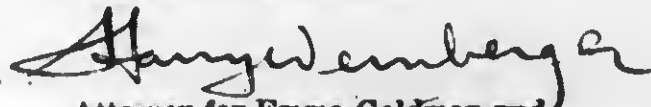
Obtained from the United States National Archives. Institutional Location: Record Group 267.
Notes: Signed copy of 850806219.

Berkman, shown by a doctor's certificate submitted to the Trial Court, was suffering physical agony when forced to trial.

WHEREFORE, I respectfully pray that the petition for a limited rehearing should be granted.

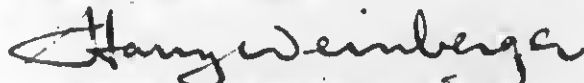
A copy of this petition has been mailed to counsel for the defendant-in-error.

Respectfully submitted,



Attorney for Emma Goldman and
Alexander Berkman,
Plaintiffs-in-Error.

I hereby certify that in my opinion the foregoing petition is well founded in law and fact and not made for the purpose of delay.



Attorney for Emma Goldman and
Alexander Berkman,
Plaintiffs-in-Error.

The Emma Goldman Papers

Asks New Goldman Hearing — 29 cm. In [Washington Star (Jan. 24, 1918)] / [author unknown].

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: The Washington Star reports that Goldman and Berkman petitioned for a rehearing before the Supreme Court.

Notes: For motion, see 810206044.

spects.

Washington Star.

Jan., 24, 18.

Emma Goldman
x Alexander Berkman

10110-267
- 372
- 322

ASKS NEW GOLDMAN HEARING.
Motion for Supreme Court to Reopen
Cases Filed.
WASHINGTON, Jan. 24.—The Supreme Court was today asked to rehear the cases of Emma Goldman and Alexander Berkman, whose conviction on a charge of conspiring to violate the Selective Service Act recently was sustained. The motion was taken under advisement.

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443

The Emma Goldman Papers

[Agent Report] In re: Mrs. Angella Marietta—Anarchistic Agent of Emma Goldman, San Francisco [19]18 Jan. 24 / F.W. Kelly [Agent, Bureau of Investigation, Department of Justice]. — 1 p. ; 22 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Kelly reports that Angella Marietta, Goldman's agent in Sacramento, California, rented a hall for Goldman's meetings in 1909 or 1910 and distributes anarchist literature.

Notes: Portions illegible.

REPORT MADE BY: F.W. Kelly,	PLACE WHERE MADE: San Francisco, Cal.	DATE WHEN MADE: Jan. 24, 18	PERIOD FOR WHICH MADE: Jan. 21
TITLE OF CASE AND OFFENSE CHARGES OR STATE OF MATTER UNDER INVESTIGATION: IN RE: MRS. ANGELLA MARIETTA (Anarchistic Agent of Emma Goldman)			
SUBJECT OF REPORT, PERSONS COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED: At Sacramento, Cal.			
<p>In talking with Sargent Fischer of the Sacramento Police Department, I obtained the following information, about a <u>Mrs. Marietta</u>, who Fischer believes to be the Sacramento Agent for Emma Goldman. This matter came to his attention by a notice in a San Francisco paper of recent date, due to the fact that Mrs. Angella Marietta had furnished bail bonds for two Italian Anarchists arrested in San Francisco.</p> <p>Mrs. Angella Marietta first came to the notice of the Police of Sacramento, Cal. in 1909 or 1910, at which time she rented the hall for Emma Goldman to speak in this city. She paid the rent in advance without stating the purpose for which the hall would be used, otherwise a hall could not have been rented for that purpose in Sacramento, and that she has since been very active in the circulation of anarchistic propaganda, and is generally reputed to be of the same violent type as Emma Goldman. She formerly resided on 9th Street near K Street, present address is unknown to Fischer.</p> <p>In the Italian letters and correspondence of Michael Centroni of the Latin Branch of the I.W.O. and now under arrest on conspiracy charge, reference is made to people living at 2115-9th Street, Sacramento, where Mrs. Marietta is supposed to be living. The names of the men for whom she furnished bail are Michael Centroni and John Toria, they are I.W.O. furnished.</p> <p>The amount of bail bonds was \$2500.00 on January 19th.</p>			
NAME OF THE AGENT OR OFFICER: F.W. Kelly, S.S.P.			

134889

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444

The Emma Goldman Papers

[Letter] 1918 Jan. 25 [Washington, D.C. to] Richard Crane [Private Secretary to Secretary of State] Department of State, Washington, D.C. / [Charles M. Storey, Department of Justice].— 1 p. ; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Storey sends a summary of the facts proven against Goldman and Berkman at trial to the State Department for transmission to Russia.

Notes: For enclosure, see 810113168. For related documents, see 810113323, 810113346, and 810113167.

COPY
from
THE NATIONAL ARCHIVES
Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

CMS/MAH

January 25, 1918.

186233-13-106

Richard Crane, Esq.,
Department of State,
Washington, D. C.

Dear Dick:-

I enclose herewith photostat copy of a letter from the United States Attorney's office in New York, giving a summary of the facts against Alexander Berkman. It will have to be cut down materially for transmission to Russia but you know how much you want to say in it.

I am endeavoring to get some dope for you about Flickert.

Very truly yours,

Inclosure 102793

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The Emma Goldman Papers

[Letter] 1918 Jan. 25, Washington, D.C. [to] Harry Weinberger, New York / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 29 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Davis acknowledges receipt of Weinberger's petition for rehearing.

Notes: Reply to 810113339.



Office of the Solicitor General, S. G.--JRH
Washington, D.C.

January 25, 1918.

Harry Weinberger, Esq.,
261 Broadway,
New York, N. Y.

Dear Sir:

I beg to acknowledge yours of the 23d with three copies
of petition for rehearing in the Goldman-Berkman case.

Very respectfully,


Solicitor General.

The Emma Goldman Papers

[Letter] 1918 Jan. 25, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: The Supreme Court clerk acknowledges receipt of Weinberger's petition for rehearing in Goldman's appeal.

Notes: Reply to 810206042.

OFFICE OF THE CLERK,
Supreme Court of the United States,
Washington, D. C.

January 25, 1918.

Harry Weinberger, Esq.,
New York City.

Dear Sir:-

Your letter of the 23d instant, containing original petition for rehearing in the case of Emma Goldman et al. v. The United States, No. 702, October Term, 1917, received today. Thirty printed copies of this petition were received yesterday and copies distributed to the justices of the court.

Yours truly,

JAMES D. MAHER, Clerk.

By  Ass't.

TFD.

The Emma Goldman Papers

[Agent Report] In re: Lecture under auspices of the Non-Partisan Radical League, Douglas Park Auditorium, Chicago, 1918 Jan. 25 / K.I. Herman, Inspector, American Protective League. — 5 p.; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Herman describes Goldman's lecture on the Russian Revolution given in Chicago on January 6, 1918. He describes the audience, the literature sold, Goldman's lecture, and the question-and-answer session.

Notes: Broken type; portions illegible. For related documents, see 850205032 and 850205043.

REPORT FORM NO. 1

CHIEF OF STAFF

COLLEGE DIVISION

MADE BY American Pro. League	PLACE WHERE MADE Chicago, Ill.	DATE WHEN MADE Jan. 25, 1918.	PERIOD FOR WHICH MADE 10/10 - 13/1
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION In Re: Lecture under auspices of The Non-Partisan Radical League Neutrality. Douglas Park Auditorium.			

STATEMENT OF OPERATIONS EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.

AT CHICAGO

CAPT. HALL

M. I. 4-11

Kane 4-5

1/23/18

Inspector K.I. Herman makes the following report:

A lecture was given at the Douglas Park Auditorium, Kedzie and Ogden Ave., Sunday evening, Jan 6th. 1918, under the auspices of the Non-Partisan Radical League. An admission of twenty-five cents was charged, no charge was made for was tax.

There was about five hundred people in attendance, most of them of Jewish extraction. A majority of them very young men and women averaging between the ages of twenty two and twenty five. Women and men equally proportioned. Most of those present were foreigners.

Circulars were placed on each vacant seat announcing three future meetings at which Emma Goldman would lecture.

Sat. Eve. Jan. 12th, 8:00 P.M. East End Hall, Clark & Erie Sts. "Women Martyrs of Russia."

Sun. afternoon Jan. 13th. 3:00 P.M. West Side Auditorium, Taylor & Racine Ave. "Subject not given."

Fri. Eve. Jan. 11th. 8:00 P.M. Douglas Park Auditorium, Kedzie & Ogden, "America and the Russian Revolution".

All of these lectures were to be conducted by the Non-Partisan Radical League.

Books and pamphlets were sold from five cents to one dollar and a half a copy. Several books, autographed by Alexander Berkman, were sold at a \$1.00 a copy, and the

COPY OF THIS REPORT FURNISHED TO

67-877

Chicago Office

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The Emma Goldman Papers

[Agent Report] In re: Lecture under auspices of the Non-Partisan Radical League, Douglas Park Auditorium, Chicago, 1918 Jan. 25 / K.I. Herman, Inspector, American Protective League. — 5 p.; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Herman describes Goldman's lecture on the Russian Revolution given in Chicago on January 6, 1918. He describes the audience, the literature sold, Goldman's lecture, and the question-and-answer session.

Notes: Broken type; portions illegible. For related documents, see 850205032 and 850205043.

Lecture under auspices of Non-Partisan Radical League.

purchasers were informed that by reason of that, the "Book" would be very valuable as Alexander Berkman will be the Russian Ambassador to America." Pamphlets sold for fifty cents containing the printed arguments of counsels before the U.S. Supreme Court in behalf of Emma Goldman and Alexander Berkman.

Announcement made that the Magazine known as the Mother Earth which has been suppressed by the Government was being published in a small form, and was being sent now through the mails for three cents under first class postage. The "Mother Earth" was sold for five cents per copy. Announcements made that there were two evils in this country God and Government which were two of the greatest superstitions. Book sold entitled "God and the State" written by Michael Bakunin.

Emma Goldman appeared on the platform at 8:40 P.M. meeting was immediately called to order.

Announcement made that due to the tremendous crowd that have been attending the lectures of Emma Goldman, arrangements had made to extend her lecture dates, and the following dates were announced for subsequent lectures.

Tues. Eve. Burke School. Subject—"Maxim Gorky and his Work"

Wed. Eve. East Side Auditorium—"Bolsheviki in Russia"

Thurs. " North West Labor School,

Fri. " Douglas Park Auditorium, "Forerunners of America and the Revolution to Come and the Russian Revolution.

Sat. Eve. East End Hall, "Women Martyrs of Russia"

Sun. " East Side Auditorium, "Spiritual Wakening of Russia"

A banquet will be held at the co-operative Restaurant for 150 people, at Jefferson----- Tickets for the banquet were sold at .75 Banquet was held for the purpose of Emma Goldman saying good-bye to her well wishers before she left to serve her term in the Penitentiary for two years.

The Emma Goldman Papers

[Agent Report] In re: Lecture under auspices of the Non-Partisan Radical League, Douglas Park Auditorium, Chicago, 1918 Jan. 25 / K.I. Herman, Inspector, American Protective League. — 5 p.; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Herman describes Goldman's lecture on the Russian Revolution given in Chicago on January 6, 1918. He describes the audience, the literature sold, Goldman's lecture, and the question-and-answer session.

Notes: Broken type; portions illegible. For related documents, see 850205032 and 850205043.

Lecture under auspices of Non-Partisan Radical League.

Extracts from Emma Goldman's Lecture.

"This afternoon I heard a very wonderful singer, Alma Gluck, when she was applauded, in stiff singing she said, while in Denver she was severely criticized because she sang a German song, and she explained, to her art and beauty had no respect to Nationality as art belonged to all people. "Applause".

She then spoke in regard to the false statements given out after Russia's entry into the war in regard to the unity that existed between the Czar, the Czarina, the Soldiers and the workers, which was later proven to be falsities as a result of this war, was due to the fact that the Czar, thought that by appealing to their instinct of patriotism by joining the war, he could utilize his people, and thereby save his crown from the impending revolution, which was bound to occur if such action was not taken.

She stated that the revolution was not due to German propaganda, but was caused by a systematic method of education among the richer classes and then the lower classes, and principles of economics spread among the populace, for which many were exiled, sent to Siberia and executed.

She named a number of men whose deed of heroism, were more or less attributed to the overthrow of the Czar. She showed various conditions and leaders who were fore-runners of the Russian Revolution. She went into a brief analysis of the conditions and developments of the revolution from the year 1600. Also of the unsuccessful revolutions from time to time down to the present day.

After she completed her lecture the evening was given to questions to be asked by the audience and to be answered by Emma Goldman.

Prior to answering the questions Emma Goldman spoke of the suppression of the magazine which she published called

The Emma Goldman Papers

[Agent Report] In re: Lecture under auspices of the Non-Partisan Radical League, Douglas Park Auditorium, Chicago, 1918 Jan. 25 / K.I. Herman, Inspector, American Protective League. — 5 p. ; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

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Notes: Broken type; portions illegible. For related documents, see 850205032 and 850205043.

Lecture under auspices of Non-Partisan Radical League.

"Mother Earth, and a method which she advised to send it through mail, by placing three cents postage on same, and sending it as first class matter. Subscriptions were one dollar a year to the magazine, and those unable to pay were given a magazine free of charge, so numerous people have contributed sufficient funds to make it possible to mail the magazine to those unable to pay. In announcing the sale of one of Alexander Berkman's books, she stated that "in the great chance to be taken in the United States, Alexander Berkman will have played a great part. I hope I have played some part in the revolution to come in America".

In the sale of one of her books she said, this contains sections showing our opposition to the draft for which we are sentenced (Alexander Berkman and Emma Goldman) to prison. The book was sold for 25 cents for paper covers and 50 cents for a better grade cover.

She made the following statement in regard to the Mother Earth. "Our book which has been suppressed, for the purpose to make the world safer for democracy, 'Mother Earth' has been suppressed. Instead of working for mailing privilege as I have decided to send 'Mother Earth' by first class mail. \$1.00 a year."

She then answered the questions which were asked.

One of the questions asked was, "wouldn't the anarchists attempt to overthrow the Bolsheviks?" To this she answered if the Bolsheviks should become despotic, go back on their principles, do away with the freedom of individuals, well I hope the anarchists will overthrow the Bolsheviks. I do not think for one minute that the Bolsheviks are at the last stage of education, but I hope Russia will aspire higher and higher, but at the present time, Russia, and I as an anarchist am with them.

The Emma Goldman Papers

[Agent Report] In re: Lecture under auspices of the Non-Partisan Radical League, Douglas Park Auditorium, Chicago, 1918 Jan. 25 / K.I. Herman, Inspector, American Pro[ective] League. — 5 p. ; 34 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Herman describes Goldman's lecture on the Russian Revolution given in Chicago on January 6, 1918. He describes the audience, the literature sold, Goldman's lecture, and the question-and-answer session.

Notes: Broken type; portions illegible. For related documents, see 850205032 and 850205043.

What were the offices of Non-Partisan League.

Question. Will the Russian Revolution have an influence on Germany to do the same thing.

Answer. If we are to read the daily papers, the soldiers of Germany are awakening, but is they are not going to be in Mister Bill's shoes.

Question. What do the Russian people think of Kerensky? and how was he overthrown?

Answer. I think that the United States is really responsible for the downfall of Kerensky.

Question. What did the Russian go to think of the Root Commission.

Answer. They went there for pleasure. Why they stayed at the hotel and had a good time. It is an old gentleman, and thought it was too risky and stayed at the hotel.

Question. Will Russia bring peace?

Answer. That depends upon you, that depends upon the German, the French, the English, that depends upon the people, if they do not succeed that will be blamed upon you.

Question. What is the difference between democracy and autocracy.

Answer. One an imaginary discourse and the other a real discourse.

Question. What does Russia think of the imprisonment of Goldman and Berkman.

Answer. One of the papers which we received in New York by the last part of September was a tremendous demonstration which took place in New York concerning the imprisonment not only of Emma Goldman and Alexander Berkman but of other prisoners.

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The Emma Goldman Papers

[Memorandum] 1918 Jan. 26 [Washington, D.C. to A.? Evans?] Intelligence Officer
[Military Intelligence Division] Western Department [War Department, San Francisco?]
/ R[alph] H. Van Deman, Chief, Military Intelligence [Division, War Department].—
1 p.; 28 × 19 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Van Deman forwards a report on a Goldman associate, recently arrived in Los Angeles.

Notes: Broken type. For original report, see 810402036.

10-586 M.I. 4.

60

10110-586
JAN 31 1918
2
WAR DEPARTMENT

January 26, 1918.

From: Chief, Military Intelligence Section.
To: Intelligence Officer, Western Department.
Subject: Collier.

1. The following memorandum has been received from the Office of Naval Intelligence and is sent for your information:

"This Office has received information from the Branch Office of Naval Intelligence in San Francisco that a New York radical of the Emma Goldman fraternity, by the name of Collier, is at the present time in Los Angeles, California, for the purpose of organizing an American Bolshevik movement.

"Collier recently received a letter from Emma Goldman, in which she congratulates him on his clever alias as a movie actor, and advises him not to go to the Hawaiian Islands for some time yet. She also congratulates him on his clever idea of holding his meetings in cabaret cafes, and adds that it takes a smart man like him to slip things over on the great United States detective force.

"The meetings referred to in Los Angeles have been reported to the United States District Attorney.

"The above information has been sent to the Department of Justice."

R. H. Van Deman

Colonel, General Staff.

By

Captain, N. A.

ls

Mailed, W. C. D., G. S., JAN 28 1918

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The Emma Goldman Papers

[Agent Report] In re: Emma Goldman, Lecture Jan. 11, 1918 [at] Douglas Park Auditorium, Chicago, 1918 Jan. 28 / Klein, Operat[ive] American Pro[ective] League. — 4 p.; 31 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Klein of the American Protective League summarizes Goldman's lecture on America and the Russian Revolution, given in Chicago on January 11, 1918.

REPORT FORM NO. 1

A. F. P.

OFFICE CHIEF OF STAFF
WAR COLLEGE DIVISION

REPORT MADE BY: American Pro. League	PLACE WHERE MADE: Chicago, Ill.	DATE WHEN MADE: Jan 28th, 1918	DATE FOR WHICH MADE: Jan. 25th, 1918
TITLE OF CASE AND OFFENSE CHARGED OR NATURE OF MATTER UNDER INVESTIGATION In Re: Emma Goldman, Lecture Jan. 11, 1918 Douglas Park Auditorium.			WAR DEPARTMENT
I. W. W.			
STATEMENT OF OPERATIONS EVIDENCE COLLECTED, NAMES AND ADDRESSES OF PERSONS INTERVIEWED, PLACES VISITED, ETC.			
AT CHICAGO		A.P.L. #82	
Operator Lieut. Klein of Captain Klicka's Company, under Insp. K. I. Herman, West Division makes the following report:			
<p>An admission of thirty cents was charged. I inquired why they charged the additional five cents this time, and they informed me that the additional charge was made for War Tax. This caused some discussion after the lecture by Mr. Nathanson, who said although they were against the War they were forced by the Government to pay War tax, on every one entering the hall, even the speaker and the President himself. The reason for the five cents charge instead of the the three cent charge which they should have paid he explained was due to the fact that they desired to keep the money intact that was collected for the protection of the I. W. W. 's, and as they thought they were not required to pay a war tax on the admission's and as they thought this was charitable work, and in order to make up the loss thereby sustained, made the charge five cents.</p> <p>Upon entering the hall subscriptions were taken by petition, from those who desired to contribute to the defense of the 166 I. W. W. 's, recently indicted by the Government. Copies of the Social War and Mother Earth, and muneros other periodicals were sold to the audience from prices of five cents to one dollar.</p> <p>A book by Alexander Berkman, was again sold this evening, although there was a very limited number left.</p> <p>Emma Goldman as before had a woman stenographer taking notes of her speech. The hall was comfortably filled and there was</p>			
COPY OF THIS REPORT FURNISHED TO Chicago Office			c7-877

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman, Lecture Jan. 11, 1918 [at] Douglas Park Auditorium, Chicago, 1918 Jan. 28 / Klein, Operat[ive] American Pro[ective] League. — 4 p. ; 31 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Klein of the American Protective League summarizes Goldman's lecture on America and the Russian Revolution, given in Chicago on January 11, 1918.

REPORT FORM NO 2

- 2 -

Emma Goldman Lecture.

about three hundred and fifty in attendance. There was no violation of the fire ordinance. Ninety per cent of those in attendance were of Jewish extraction. Men and women were evenly proportioned. Those in attendance were between the ages of eighteen and forty. Though an average age of those attending was between 21 and twenty five.

Emma Goldman appeared in the hall about 9:00 P. M. Dr. Nathanson, residing at 3318 Douglas Blvd., appeared with her. He called the meeting to order immediately, and announced that the subject of the lecture was America and the Russian Government. He introduced Emma Goldman, and stated that the world had witnessed a number of revolutions, but the most conspicuous one was the French Revolution as it pronounced to the world and not only to France, political and religious freedom.

The Russian revolution too, has a message to deliver to the world, for surpassing that of France, as it is a message of Social and Economic freedom, and therefore, there have been many misrepresentations of the Russian revolution, which Miss Goldman will correct.

Extracts from Emma Goldman's lecture.

"When the great woman Bakunin"---, who is known the world over as the mother of the Revolution, was in America and lived with me for a time, I used to look at her and marvel at her wonderful youth, her spirit, her passionate faith, and always asked her how did you succeed in retaining your spirit, your youth, and your energy after twenty years in Siberia. She would look at me with her large and beautiful eyes, and she would say, "How do you manage to retain your spirit, your youth, and your energy living twenty five years in the Siberia of America."

She was very sorry to observe that in this country there appeared to be no response to the Revolutionary spirit.

c1-871

455

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman, Lecture Jan. 11, 1918 [at] Douglas Park Auditorium, Chicago, 1918 Jan. 28 / Klein, Operat[ive] American Pro[ective] League. — 4 p. ; 31 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Klein of the American Protective League summarizes Goldman's lecture on America and the Russian Revolution, given in Chicago on January 11, 1918.

REPORT FORM NO 2

- 3 -

Emma Goldman Lecture

She devoted a good portion of her speech towards denouncing the tactics and methods of the American Journalists who were assigned by their dailies to report the progress of affairs in R Russia. She stated that nearly all of the reports coming from these correspondents were exaggerated and untruthful, and that they treated more of the sensational matter, and exaggerated existing conditions, and did not do justice to the Russian people.

She stated the reports were colored to satisfy American interests, and to satisfy the editor of the daily for which the correspondent wrote. She stated that if we were to believe the majority of these writers, it would appear that the revolution was ill-timed, as from their view, the peasants were not prepared to accept a different form of Government. She said the freedom of exiles from Siberia was a misfortune, that the revolutionist's were a crazy lot of criminals. She further stated that the articles instead of favoring the revolutionist's apparently favored the poor Czar, who was imprisoned, denied some of the comforts which he formerly enjoyed. She stated that the fact that the Czar was compelled to work, and that the number of his servants has been reduced, the correspondents favored the Czar to such an extent that it would have been a good thing if they had brought him over here. She further stated that the majority of the correspondents denounced the action of this country in permitting Russian exiles the right to go back to Russia.

She stated that a one time Chicagoan who was exiled from Russia and who endured all the hardships of this country, told the Russians "Donnot establish such a republic as they have in America" It has made failure in America. Do not establish political freedom as they have it in the United States for such does not exist.

Jestingly referred to the Root Commission, and said just imagine Root representing the American workingman. Eulogized the

c7-871

456

The Emma Goldman Papers

[Agent Report] In re: Emma Goldman, Lecture Jan. 11, 1918 [at] Douglas Park Auditorium, Chicago, 1918 Jan. 28 / Klein, Operat[ive] American Pro[ective] League. — 4 p. ; 31 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 165.

Summary: Klein of the American Protective League summarizes Goldman's lecture on America and the Russian Revolution, given in Chicago on January 11, 1918.

REPORT FORM NO. 2

- 4 -

Emma Goldman Lecture

Anarchists of Chicago fame in 1887, and stated Chicago Anarchists, friends, are the pioneers and the forerunners of the revolution to take place in the United States just as sure as the revolution is now taking place in Russia.

She stated a number of foreigners would be glad to be sent out of this country back to Russia. She stated a number of foreigners would be glad to leave this country.

Denounced the action of the Milwaukee Authorities in sentencing men and women to 25 years imprisonment, claiming that the action was brought about by popular prejudice, and stating that they are going to help them.

She was asked whether Debs was forerunner of the American Revolution, and she answered, Yes' He is one of the great pioneers of the economic revolution to come and a man who played a tremendous part in sewing the seed of revolutionary ideas, and economic ideas in the United States.

When asked what form of Government the Bolsheviki would establish in Russia, she said, whatever kind of Government they are going to have, it is not going to be an American Government.

The Emma Goldman Papers

[Letter] 1918 Jan. 28, Washington [D.C. to] All Employees, Bureau of Investigation [Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice. — 3 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks the Bureau of Investigation employees to cooperate with the express companies in preventing the distribution of the non-mailable publications listed.

Notes: Response to 880928040. For same letter to Special Agent, see 880928042.

69746
Department of Justice,
Bureau of Investigation,
Washington.

January 28, 1918.

To All Employees of the Bureau of Investigation:

Arrangements have been completed with representatives of all of the express companies doing business within the United States whereby they will undertake to refuse to accept for transportation not only any matter excluded by the Postmaster General from the mails under the Espionage Act, but any subsequent editions of such papers. The publishers will no doubt make every effort to send their publications in disguised form.

With this in mind, it is desired that you give special attention to these matters and cooperate fully with the representatives of the express companies in attempting to ferret out those directly or indirectly connected with the distribution and transportation of such literature, and report the facts immediately to the representatives of the express companies.

The following papers have been excluded from the mails:

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The Emma Goldman Papers

[Letter] 1918 Jan. 28, Washington [D.C. to] All Employees, Bureau of Investigation [Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice. — 3 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks the Bureau of Investigation employees to cooperate with the express companies in preventing the distribution of the non-mailable publications listed.

Notes: Response to 880928040. For same letter to Special Agent, see 880928042.

-2-

"Solidarity," an I.W.W. publication, Chicago, Ill.

"Address to Railroad Workers," an I.W.W. publication, Chicago, Ill.

"The Daily Home," Industrial Worker, Rome, Arizona.

Certain pamphlets printed in Russian and distributed by the I.W.W. at 1001 West Madison Street, Chicago, Ill.

"The International Socialist Review," Chicago, Ill.

"Defense News Bulletin," an I.W.W. publication, Chicago, Ill.

"I.W.W. Songs," Chicago, Ill.

"Worker's Thoughts," an I.W.W. publication, Chicago, Illinois.

"Social Revolution," St. Louis, Missouri.

"Il Proletario," Boston, Mass.

"Alarm," I.W.W. publication, Chicago, Ill.

"El Rebelde," Los Angeles, Cal.

"Cultura Obrera," New York City.

"Mother Earth," New York City.

"Mother Earth Bulletin," New York City.

"Industrialist," Duluth, Minn.

"I.W.W. Bulletin #57," Aberdeen, S. D.

"Az uj Tarsadalon," Chicago, Ill.

"The Blast," New York City.

"The Social War," Chicago, Ill.

"Manifesto," Los Angeles, Cal.

"The Masses," New York City.

"La Parola Proletaria," Chicago, Ill.

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Letter] 1918 Jan. 28, Washington [D.C. to] All Employees, Bureau of Investigation [Department of Justice] / A. B[ruce] Bielaski, Chief, Bureau of Investigation, Department of Justice. — 3 p. ; 19 x 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Bielaski asks the Bureau of Investigation employees to cooperate with the express companies in preventing the distribution of the non-mailable publications listed.

Notes: Response to 880928040. For same letter to Special Agent, see 880928042.

-3-

"L'Avvenire," New York City.

"Cronaca Sovversiva," Lynn, Mass.

"Obrana," New York City.

Please give this matter special attention.

Very truly yours,

A. B. BIELASKI,

Chief.

_____, 1918.

Chief, Bureau of Investigation,

Department of Justice,

Washington, D. C.

Sir:

I hereby acknowledge receipt of your letter of January ²⁵~~15~~, 1918 in reference to matter excluded from the mails by the Postmaster General, under the Espionage Act.

BEST COPY AVAILABLE

460

The Emma Goldman Papers

[Letter] 1918 Jan. 28, Washington, D.C. [to] Harry Weinberger, New York / James D. Maher, Clerk, United States Supreme Court. — 1 p. ; 28 × 22 cm.

Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.

Summary: Maher notifies Weinberger that the Court denied his petition for rehearing.

Notes: For court's decision, see 810206053.

OFFICE OF THE CLERK,
Supreme Court of the United States,
Washington, D.C.

January 28th, 1918.

Harry Weinberger, Esq.,

New York City.

Dear Sir:-

I am directed by the Court to notify you that the petition for rehearing in case of Emma Goldman, et al., Plaintiffs in Error, vs. The United States, No. 702 of October Term, 1917, is denied.

The Court delivered no opinion on denying the motion.

Yours truly,

JAMES D. MAHER,

Clerk, Supreme Court, U.S.

Per *H. M. Mahoney* Deputy.

RFC.

The Emma Goldman Papers

Goldman [& Berkman] v. United States: Petition for Rehearing, 1918 Jan. 28 [cover page] / [James? D.? Maher? Clerk? United States Supreme Court].— 1 p.; 18 × 9 cm. Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: The Supreme Court records that Goldman's petition for rehearing was received on January 24, 1918, and denied on January 28, 1918.

Notes: For enclosures, see 850806219 and 810206053.

File No. 26,169.

SUPREME COURT U. S.

October term, 1917.

Term No. 702.

Emma Goldman et al.,

Pl'ffs in Error,

vs.

The United States.

Petition for rehearing.

*Received and distributed Jan-
uary 24, 1918.*

Denied - Jan'y 28, 1918

Filed , 191

462

The Emma Goldman Papers

Goldman [& Berkman] v. United States: [Petition for Rehearing denied] 1918 Jan. 28
 / Edward D. White, Chief Justice, United States Supreme Court. — 1 p. ; 18 × 15 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 267.
Summary: Chief Justice White signs the Supreme Court order denying Harry Weinberger's petition for a rehearing of Goldman and Berkman's case.
Notes: Enclosed with 810206047.

702
 26/69

SUPREME COURT OF THE UNITED STATES.

Monday, January 28, 1918.

No. 702.

Emma Goldman et al..)	
Pl'ffs in Error.)	In Error to the District Court of
vs.)	the United States for the Southern
	District of New York.
The United States.....)	

(January 28, 1918).

The petition for rehearing is denied.

Edward D. White

CHIEF JUSTICE.

*Harry Weinberger
 261 Broadway
 New York City,
 N.Y.*

The Emma Goldman Papers

Goldman [&] Berkman v. United States: [Order to Issue Mandate] 1918 Jan. 28 / [Edward] White, Chief Justice, United States Supreme Court. — 1 p. ; 27 × 18 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Chief Justice White signs the order granting the solicitor general's motion to issue the court's mandate.

Supreme Court of the United States.

No. 702 ———, October Term, 1917.

Emma Goldman and Alexander Berkman,

Plaintiffs in Error,

vs.

The United States.

ON CONSIDERATION of the motion that the mandate
in this cause issue at once,

Motion
~~Order~~ be, and the same is hereby, granted.

per Mr. Chief Justice White

January 28, 1918.



The Emma Goldman Papers

[Letter] 1918 Jan. 28, Washington, D.C. [to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 22 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

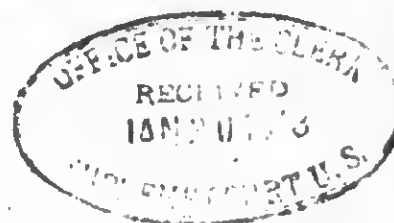
Summary: The solicitor general requests the Supreme Court's mandate in Goldman's case.

Notes: For reply, see 810113343.



Office of the Solicitor General, SG-WJH-LJB
Washington, D. C.

January 28, 1918.



James D. Maher, Esq.,
Clerk, Supreme Court, U. S.,
Washington, D. C.

Sir:

Please send me, as soon as convenient,
mandate of the Supreme
Court
in the case of Goldman and Berkman v. The United
States,

No. 702 , October Term, 19 17.

Respectfully,



John W. Davis
Solicitor General.

Ent Jan 29. 18
No Ans. Jan 30. 18

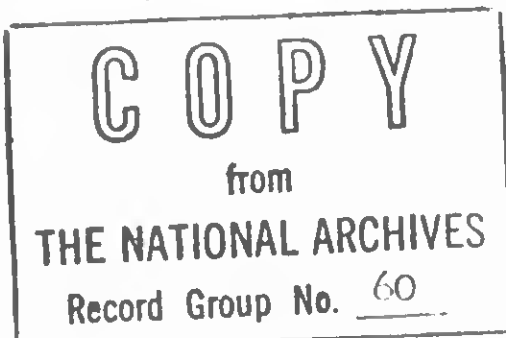
The Emma Goldman Papers

[Letter] 1918 Jan. 29, Washington, D.C. [to John W. Davis] Solicitor General [Department of Justice], Washington, D.C. / James D. Maher, Clerk, United States Supreme Court. — 1 p.; 36 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Maher sends the solicitor general the Supreme Court's mandate in the Goldman-Berkman case.

Notes: For enclosure, see 810206057 and 810206059. For reply, see 810206058. For order mentioned, see 810206052.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

OFFICE OF THE CLERK,
Supreme Court of the United States,
Washington, D.C.

January 29th, 1918.

The Solicitor General,
Washington, D. C.

Sir;-

The petition for rehearing in case of Emma Goldman and Alexander Berkman, Plaintiffs in Error, vs. The United States, No. 702 of October Term, 1917, having been denied by the Court yesterday, and it having entered its order granting the motion that the mandate issue at once, I enclose for filing with the court to which it is addressed, the mandate of this Court in said case.

Please acknowledge its receipt.

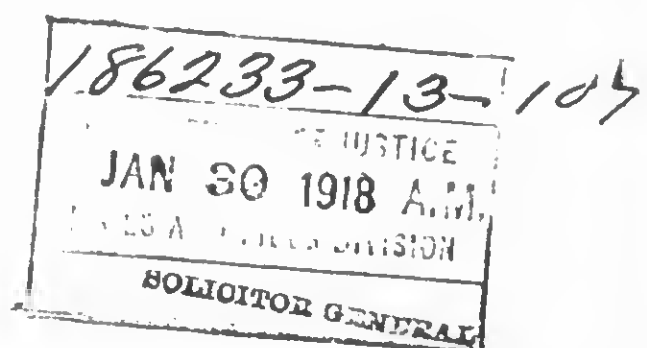
Respectfully,

JAMES D. MAHER,

Clerk, Supreme Court, U. S.

Per *H. M. Kenney* Deputy.

JAN 31 1918



The Emma Goldman Papers

Goldman [&] Berkman v. United States: Mandate, 1918 Jan. 29 [cover page] / Edward White, Chief Justice [United States Supreme Court]. — 1 p. ; 28 × 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Chief Justice White signs the Supreme Court's mandate on January 29, 1918.

Notes: Enclosed with 810206059.

*You, therefore, are hereby commanded that such ~~execution and~~
proceedings be had in said cause.*

*as according to right and justice, and the laws
of the United States, ought to be had, the said writ of error
notwithstanding.*

*Witness, the Honorable EDWARD D. WHITE, Chief Justice of the United
States, the twenty-ninth day of January, in the year of our
Lord one thousand nine hundred and eighteen.*

*Clerk of _____
Clerk _____
Printing record _____
Attorney _____
_____*

Clerk of the Supreme Court of the United States.

File No. 26,169.

Supreme Court of the United States.

No. 702, October Term, 1917.

Emma Goldman and Alexander

Berkman,

vs.

The United States.

MANDATE.

The Emma Goldman Papers

[File Memorandum for John W. Davis, 1918 Jan. 29? Washington, D.C.] / [James? D.? Maher? Clerk? United States Supreme Court]. — 1 p. ; 18 × 15 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Mayer writes a file memo that he has sent the Supreme Court's mandate to the solicitor general.

Notes: For related document, see 810113343.

70²
26169

The Solicitor General
Dept of Justice
Washington.
A.C.



Recd mand.

The Emma Goldman Papers

850712492

[Telegram, 19]18 Jan. 29, Wash[ingto]n, D.C. [to] Harry Weinberger, New York / Ja[me]s D. Maher, Clerk [United States Supreme Court].— 1 p. ; 17 x 21 cm.
 Permission to reproduce or quote in any form must be obtained from the Yale University Library. Institutional Location: Harry Weinberger Papers, Department of Manuscripts and Archives.
 Summary: Maher informs Weinberger that he is sending the Supreme Court's mandate to the solicitor general.
 Notes: Broken type; light copy. Reply to 810206035. Same text as 810206056, but in different format.

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Red
Night Letter	N.L.

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

WESTERN UNION
TELEGRAM
 NEWCOMB CARLTON, PRESIDENT GEORGE W. E. ATKINS, FIRST VICE PRESIDENT

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Red
Night Letter	N.L.

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

RECEIVED AT

212WUP 14 COLL 1 EXA

306 BROADWAY

PHONES 1667 & 1937 WORTH

CS WASH DC 320P JAN 29 18

HARRY WEINBERGER

261 BWAY NEWYORK

MANDATE GOLDMAN AND BERKMAN AGAINST UNITED STATES GOES TO THE SOLICITOR GENERAL TODAY

JAS D MAHER

CLERK

355P

*Levitt
 3 u canal
 Shores Rest.
 vick 772*

469

The Emma Goldman Papers

[Telegram] 1918 Jan. 29 [Washington, D.C. to] Harry Weinberger, New York / James D. Maher, Clerk [United States Supreme Court]. — 1 p. ; 11 × 16 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Notes: Same text as 850712492, but in different format.

January 29, 1918.

Harry Weinberger,

261 Broadway,

New York City.

Mandate Goldman and Berkman against United States goes
to the Solicitor General to-day.

JAMES D. MAHER, Clerk.



BEST COPY AVAILABLE

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The Emma Goldman Papers

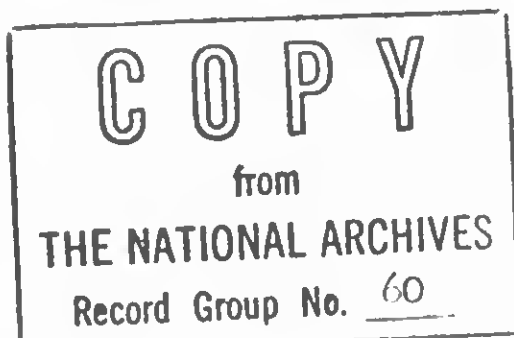
810113347

[Letter] 1918 Jan. 29 [New York to John Lord O'Brian, Special Assistant to the Attorney General] Department of Justice, Washington, D.C. / Julius M. Mayer, Judge, United States District Court. — 1 p. ; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Judge Mayer asks the Department of Justice why it has not printed his charge to the jury in the Goldman case.

Notes: For reply, see 810113348.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

UNITED STATES DISTRICT COURT

CHAMBERS OF JUDGE MAYER

Jan. 29, 1918.

Department of Justice,
Washington, D. C.

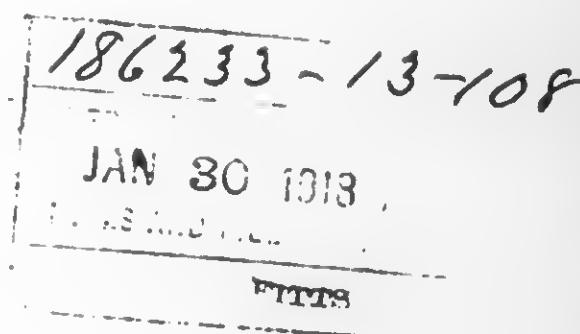
Gentlemen:-

In your publications under the heading of "Interpretation of War Statutes" I have failed to see my charge in the Goldman and Berkman case. Possibly it has been published but I have missed it. It is not a matter of any consequence to me whether it is published or not, but I am curious to know whether there is any reason why it should not be published, in view of the fact that it was the first of the highly important trials in this regard *(after Kraus & Becker)*

Yours truly,

Julius M. Mayer
District Judge.

REB
8
1918



471

The Emma Goldman Papers

870527002

[Letter] 191[8] Jan. 29, New York [to unknown recipient] / Emma Goldman. — 1 p.; 35 x 21 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Goldman urges friends to support the Mother Earth Bulletin while she is in prison. She also urges support for Berkman's fight against extradition and the new League for the Amnesty of Political Prisoners.

Notes: Broken type. Enclosed with 810128085, 870527003 and 870527004. For copy, see 800519024. Erroneously dated 1917.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

MOTHER EARTH

Monthly Magazine
of
Anarchist Thought

10c. a Copy
\$1.00 per Year

HEADQUARTERS FOR ANARCHIST LITERATURE

TELEPHONE SPRE

MOTHER EARTH PUBLISHING ASSOCIATION

ROOM 204
226 LAFAYETTE STREET
NEW YORK

January 29th, 1917.

Dear Friend:-

At last the inevitable has come. The U. S. Supreme Court has sustained the decision in the conspiracy charge against us. We are not disappointed. We expected nothing else from an institution which has never yet shown justice to radicalism.

Before this reaches you we will no doubt have been taken to prison--Alexander Berkman to Atlanta, Ga., and I to Jefferson City, Mo. Therefore, this is my last communication to you, dear friend, while I am still at liberty. After this we will be in touch with you only through the pages of the Mother Earth BULLETIN. As we will only be permitted to write once a week from prison, and on one sheet of paper, all our messages will necessarily have to be transmitted to you through our office.

The BULLETIN will therefore be the only medium for expression that we will have for the next two years. We hope that you will want it to continue during that time, even if it should necessitate an extra effort on your part. There is another reason: I have labored for years to build up MOTHER EARTH and to spread our literature broadcast. It would be a great tragedy to me, far greater than my imprisonment, were our work to stop during that period.

I have made arrangements for the work to continue during our absence. My niece, Stella Carya, will have charge, and with the assistance of our good friend, Carl Newlander, will do the utmost to keep the banner flying. Leonard D. Abbott, Harry Weinberger, and others will speak to you through the pages of the Mother Earth BULLETIN.

Now, dear friend, I am sure you want to cheer and comfort us during our retirement. You can do so by contributing to the Sustaining Fund of the BULLETIN. Co-operate with other friends in your city, arrange a concert or dance for that purpose, spread our literature; particularly Alexander Berkman's "Prison Memoirs of an Anarchist", my "Anarchism and Other Essays", our "Trial and Speeches", etc. The four books advertised in this issue of the BULLETIN are the most important on the war. Order your copy through our office and induce others to do so. In fact, we can furnish you with any book you may want, if it is obtainable.

As our last contribution to the Cause we are organizing a League for the Amnesty of all Political Prisoners as soon as peace is concluded. You will hear about it soon. I hope it will have your whole-hearted support.

Two years have no terrors for us were it not for the danger of the Chamber of Commerce of San Francisco reaching out its blood-stained hands for Alexander Berkman. Do not relax in your efforts to prevent such a terrible crime. Help maintain the work which has been built up so painfully.

Write us in prison. Always sign your full name and address us as Political Prisoners.

Fraternally,

Emma Goldman

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472

The Emma Goldman Papers

[Letter] 191[8] Jan. 29, New York [to unknown recipient] / Emma Goldman.—
1 p.; 29 x 22 cm.
Obtained from the United States National Archives. Institutional Location: Record Group 38.
Notes: Copy of 870527002. Erroneously dated 1917.

MOTHER EARTH

Monthly Magazine
of
Anarchist Thought

10c. a Copy
\$1.00 per Year

HEADQUARTERS FOR ANARCHIST LITERATURE

TELEPHONE SPRING 8711

MOTHER EARTH PUBLISHING ASSOCIATION

ROOM 204
226 LAFAYETTE STREET
NEW YORK

January 29th, 1917.

ANARCHISM

The philosophy of a
new social order based
on liberty unrestricted
by man-made law; the
theory that all forms
of government rest
on violence, and are
therefore wrong and
harmful, as well as
unnecessary

Dear Friend:-

At last the inevitable has come! The U. S. Supreme Court has sustained the decision in the conspiracy charge against us. We are not disappointed. We expected nothing else from an institution which has never yet shown justice to radicalism.

Before this reaches you we will no doubt have been taken to prison--Alexander Berkman to Atlanta, Ga., and I to Jefferson City, Mo. Therefore, this is my last communication to you, dear friend, while I am still at liberty. After this we will be in touch with you only through the pages of the Mother Earth BULLETIN. As we will only be permitted to write once a week from prison, and on one sheet of paper, all our messages will necessarily have to be transmitted to you through our office.

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Two years have no terrors for us were it not for the danger of the Chamber of Commerce of San Francisco reaching out its blood-stained hands for Alexander Berkman. Do not relax in your efforts to prevent such a terrible crime. Help maintain the work which has been built up so painfully.

Write us in prison. Always sign your full name and address us as Political Prisoners.

Fraternally,

Emma Goldman

473

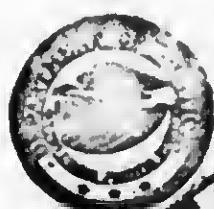
The Emma Goldman Papers

[Letter] 1918 Jan. 30, Washington, D.C. [to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / John W. Davis, Solicitor General, Department of Justice. — 1 p. ; 22 × 17 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 267.

Summary: Davis acknowledges receipt of the Supreme Court's mandate.

Notes: Reply to 810113343.



Office of the Solicitor General, SG-WJH-LJB
Washington, D. C.

January 30, 1918.

186233-

James D. Maher, Esq.,
Clerk, Supreme Court, U. S.,
Washington, D. C.

Sir:

I beg to acknowledge receipt of your letter
of the 29th inclosing mandate
of the Supreme Court
in the case of
Goldman and Berkman v. The United States,

No. 702, October Term, 1917.

Respectfully,

John W. Davis
Solicitor General.

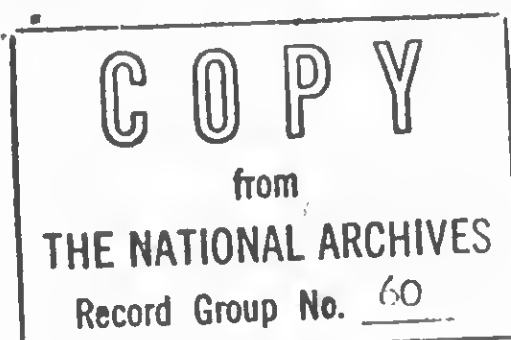
NO ANSW.
JAN 31 1918

The Emma Goldman Papers

[Letter] 1918 Jan. 30, Washington, D.C. [to] James D. Maher, Clerk, U[nited] S[tates] Supreme Court, Washington, D.C. / John W. Davis, Solicitor General [Department of Justice]. — 1 p. ; 36 × 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Notes: Copy of 810206058.



Records of the Department of Justice
Central File Number 186233-13 (Section 2)

Office of the Solicitor General, 80-WJH-LJB
Washington, D. C.

January 30, 1918.

186233-13-107

James D. Maher, Esq.,
Clerk, Supreme Court, U. S.,
Washington, D. C.

Sir:

I beg to acknowledge receipt of your letter
of the 29th inclosing mandate
of the Supreme Court
in the case of
Goldman and Berkman v. The United States,

No. 702 , October Term, 1917.

Respectfully,

(Signed) Jno. W. Davis
Solicitor General.

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The Emma Goldman Papers

[Letter] 1918 Jan. 30, Washington, D.C. [to] Francis G. Caffey, United States Attorney [Department of Justice], New York / John W. Davis, Solicitor General [Department of Justice]. — 1 p.; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Davis forwards the Supreme Court's mandate in Goldman's appeal to Francis Caffey.

Notes: For enclosure, see 810206057 and 810206059. For reply, see 810223357.

COPY

from

THE NATIONAL ARCHIVES

Record Group No. 60

Records of the Department of Justice
Central File Number 186233-13 (Section 2)

Office of the Solicitor General, **SG-WJH-LJB**
Washington, D. C.

JAN 31 1918

186233-13-107

January 30, 1918.

Francis G. Caffey, Esq.,

United States Attorney,

New York, N. Y.

Sir:

I send you herewith, for your appropriate
action, **mandate** of the Supreme
Court of the United States
in the case of **Goldman and Berkman**
v. The United States,

No. 702, October Term, ~~1912~~ **1917.**

Please acknowledge receipt.

Respectfully,

Enc. 101244.

(Signed) **John W. Davis**
Solicitor General.

BEST COPY AVAILABLE

476

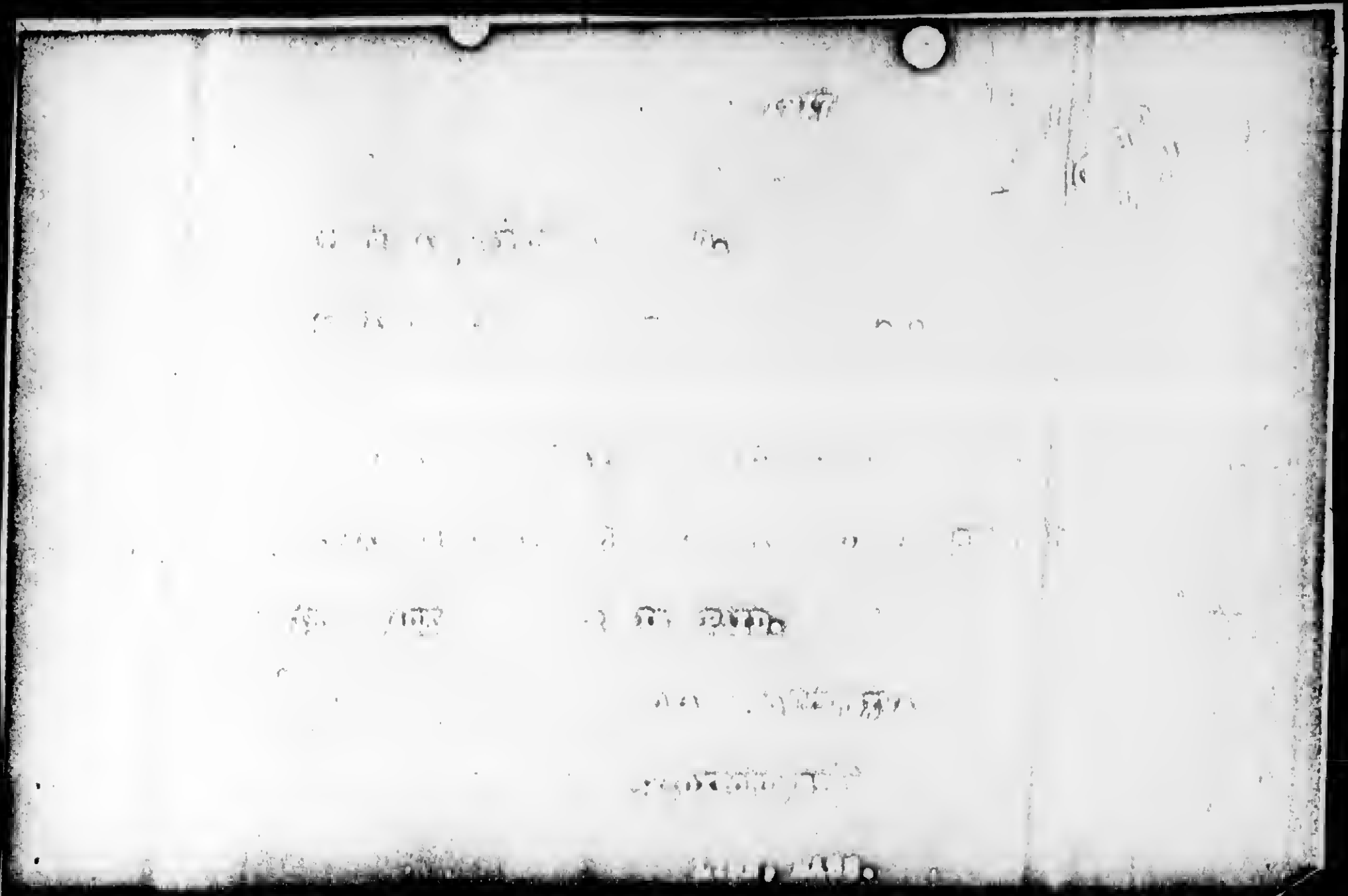
The Emma Goldman Papers

[Telegram] 191[8] Jan. 30, Lynn, Mass. [to Carl Newlander], New York [government transcript] / Cronaca Sovversiva. — 1 p. ; 14 × 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Someone from *Cronaca Sovversiva* asks if Berkman and Goldman have been taken to prison yet.

Notes: Light copy; barely legible. For reply, see 811222009. Erroneously dated 1917.



BEST COPY AVAILABLE

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The Emma Goldman Papers

[Telegram, 19]18 Jan. 30, New York [to] Cronaca Sovversiva, Lynn, Mass. / Carl Newlander. — 1 p. ; 17 × 20 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 65.

Summary: Newlander informs Cronaca Sovversiva that Goldman and Berkman have not yet gone to prison.

Notes: Light copy; barely legible. Reply to 811202210.

CLASS OF SERVICE		SYMBOL	
Day	Night	Day	Night
1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	32
33	34	35	36
37	38	39	40
41	42	43	44
45	46	47	48
49	50	51	52
53	54	55	56
57	58	59	60
61	62	63	64
65	66	67	68
69	70	71	72
73	74	75	76
77	78	79	80
81	82	83	84
85	86	87	88
89	90	91	92
93	94	95	96
97	98	99	100

WESTERN UNION
TELEGRAM

RECEIVED AT 56 CENTRAL SQUARE, LYNN, MASS. 1918

62NY.....K...16 N.Y.

ON NEW YORK JAN 30-18

CRONACA SOVVERSIVA,

52 OXFORD ST

LYNN MASS.

GOLDMAN AND BERKMAN NOT YET SURRENDERED WAITING FOR ORDER FROM COURT

WIL WIRE SOON WE KNOW

CARL NEWLANDER

750 PM

BEST COPY AVAILABLE

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The Emma Goldman Papers

[Letter] 1918 Jan. 30, New York [to William H. Lamar] Solicitor, Post Office Department, [Washington, D.C.] / T[homas] G. Patten, Postmaster, Post Office [Department]. — 1 p. ; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 28.

Summary: Patten asks Lamar whether the enclosed material mailed by the Mother Earth Publishing Association is mailable.

Notes: For enclosures, see 870527002 through 870527004. For reply, see 810128090 and 810128091.

Record Group 28: Records of the Post Office Department
Records Relating to the Espionage Act World War I, 1917-18
#46647

28

OFFICE OF THE POSTMASTER

United States Post Office
NEW YORK, N. Y.

2 Encls.

January 30, 1918

Solicitor,

Post Office Department.

Enclosed are specimens of sealed envelopes bearing
the card:

"Room 204
226 Lafayette Street,
New York, N.Y."

several hundred of which have been mailed at stations of the New York Post Office. From an examination of some which were found to be unsealed it is learned that the contents consist of the January 1918 issue of "Mother Earth Bulletin" (Vol. 1 No. 4), a circular of the Mother Earth Publishing Association signed by Emma Goldman, and a circular regarding the receipts and disbursements of the Political Defense Fund. It is believed that all of the sealed envelopes contain similar matter, and in accordance with your instructions the mail will be held awaiting your advice as to the disposition thereof.

H-h

T. G. Patten
Postmaster

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The Emma Goldman Papers

[Letter] 1918 Jan. 31 [Washington, D.C. to] Richard Crane [Private Secretary to Secretary of State] Department of State, Washington, D.C. / C[harles] M. S[torey, Department of Justice].— 1 p.; 36 x 22 cm.

Obtained from the United States National Archives. Institutional Location: Record Group 60.

Summary: Storey sends the State Department a copy of the government's brief in Goldman and Berkman's appeal.

Notes: Includes handwritten note on Mooney case. Reply to 810113336. For correspondence mentioned, see 810113168 and 810113169.

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186233-13-

CMS/PWC

January 31, 1918.

Richard Crane, Esq.,
Department of State,
Washington, D. C.

Dear Dick:

With reference to my letter of January 25th, giving a summary of the facts against Berkman, I am enclosing a brief by the Solicitor General in the case before the Supreme Court.

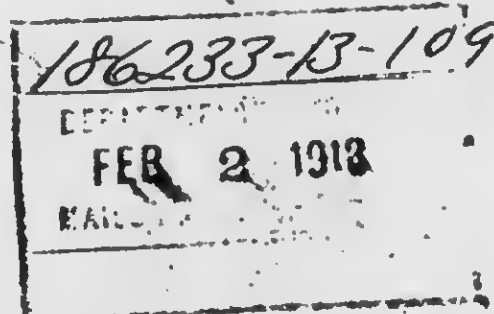
Very truly yours,

CMS

In 101090

Also copy with of Nathan 1/31 17

*in Fickert's election see
mooney car*



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The
Emma
Goldman
Papers

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Government Documents

December 1, 1917 to January 31, 1918

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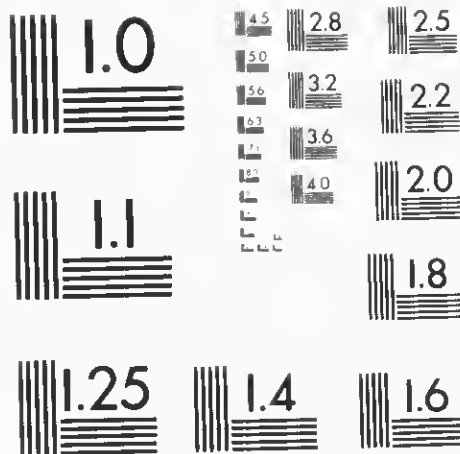
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